

ALABAMA LAWS
(and Joint Resolutions)
OF THE
LEGISLATURE OF ALABAMA
PASSED AT THE
REGULAR SESSION, 1998
VOL. 1



FOB JAMES, Governor
DON SIEGELMAN, Lieutenant Governor
DEWAYNE FREEMAN, President Pro-Tem of the Senate
JAMES S. CLARK, Speaker of the House
SETH HAMMETT, Speaker Pro-Tem of the House
McDOWELL LEE, Secretary of the Senate
GREG PAPPAS, Clerk of the House

WITH AN INDEX PREPARED BY THE
LEGISLATIVE REFERENCE SERVICE

The undersigned, as Secretary of State of the State of Alabama, does hereby certify that this book contains bills and joint resolutions enacted at the 1998 Regular Session of the Legislature of Alabama and is the official publication of such acts.

Jim Bennett
Secretary of State

PREFACE

The right of open access to the public record is fundamental to the operation of a democracy. This access provides citizens with the ability to examine, on their own and absent the interpretation of others, the actions of their elected representatives. Through this examination, citizens make informed, and better decisions, about the character of the government. The *Acts of the Alabama Legislature* provides a detailed account of the actions of the state legislature during 1998, the fourth year of the quadrennium. Its pages continue our nation's long-standing tradition of a responsive government that encourages a constant and vigilant review by its citizens.

I hope you find the *Acts of the Alabama Legislature* informative.

Jim Bennett
Secretary of State

GOVERNOR JAMES'
"STATE OF THE STATE" ADDRESS
JANUARY 13, 1998

Mr. Speaker, Governor Siegelman, ladies and gentlemen of the House, the Senate and the High Courts, my fellow Alabamians, on behalf of the executive branch of government, once again it is my privilege and duty to report to you on the State of the State.

We lost a dedicated public servant and a true friend when Representative Thomas Reed of Tuskegee died this past October. We will miss him and our prayers are with Sereetta and her family.

I want to thank each member of the House and Senate who in the last three years helped pass proposals I submitted to you on education reform, court reform and welfare reform. Thank you, also for the passage of a competitive industrial incentive law, a strong absentee ballot law, and a law banning partial birth abortions.

I am especially appreciative for the outstanding leadership of Speaker Jimmy Clark without whom our legislative initiatives would not have been successful. Mr. Speaker, I know these are exciting days for you and I wish to recognize your 38 years of public service to the people of Alabama by presenting you this plaque.

Since January 1995, I have focused this administration on improving the education of 750,000 students in Alabama public schools. We required that a student, in order to graduate from high school, must take English, social studies, math and science in all four years instead of just taking English and social studies. Every student will now leave high school better grounded in core academic subjects and with a high school diploma that has real value.

In 1995, we were not funding K-12 nearly as well as we should or could. But after three years funding has increased by over one-half billion dollars, with every cent of growth in the Education Trust Fund going to K-12. State funding alone is annually about \$700 dollars more per student or \$14,000 more dollars for a classroom of 20 students or \$210,000 dollars more for a school of 300 students.

Three years ago the average class size for one teacher was 30 to 35 students. To date, we have hired over 2,000 new teachers, which allows the State Board of Education to reduce class sizes. The limit of students in kindergarten through third grade is 18; in fourth through sixth grade, 26; in seventh through twelfth grade, 29. The State Board will fully implement these reductions by

August 1998, and each teacher will be able to spend more individual time with students who need special assistance.

Good discipline enhances learning within the classroom. Teachers have told me they were afraid to impose discipline because of lawsuits. Therefore we passed legislation to give teachers the legal right to spank a child who needs it, as long as they follow local school board policies. I remember many times when a little old-fashioned spanking got my attention.

Our return to common sense on corporal punishment will help our schools have a more disciplined learning environment and produce better citizens.

We found some schools were short on textbooks and many school buses were old and in disrepair. We now provide every student with a textbook for every required subject and we have purchased over 1,800 new school buses since 1995.

Three years ago there was not a comprehensive program to measure the basic academic skills of every student. We now test students each year in grades 3-11 to determine if academic standards are being met. If not, the local school authorities are given two years to correct the deficiencies. If they fail to do so, the State Superintendent of Education takes over management of the school until the standards are met.

The Stanford Achievement Tests were given last April, and Alabama students met or exceeded the national average in every subject in every grade.

Surely, a state that does not tolerate losing football programs should not tolerate losing academic programs.

So, let us not be content with meeting or beating the national average. Let us not rest until our student's performance leads the nation.

I said in my first Inaugural Address, almost 20 years ago, that our classroom teachers are the infantry in the war on illiteracy and tonight I am deeply grateful for their good work as evidenced by test score results. I sense excitement and determination not only by our teachers, but also by school secretaries, custodians, cafeteria workers, bus drivers, and maintenance workers to make our schools the best in America.

I share their excitement and I am pleased to propose a salary increase of 8.5 percent for all education personnel. This will raise teachers' salaries from an average of \$31,000 in 1995 to an average of \$36,000 in 1998, an increase of 16 percent that will enable us to attract and retain good teachers.

As we know, there is no tougher job than principal or superintendent. They bear responsibility for the performance of each school and of the entire system. We appreciate and applaud the leadership of Dr. Ed Richardson and all of our local superintendents and principals.

The Finance Department has informed me that the State of Alabama is due some \$1.5 billion dollars as a result of overpayments to the Teachers Retirement Fund, and the pay back will be in the form of annual reductions in retirement contributions made by the state.

This is a windfall of mammoth proportions. Let us not foolishly spend this money. Let us put it to good use by investing in Alabama's future. I can think of no better use for this windfall than providing the best in education facilities and setting up a Merit Scholarship Fund that will serve generations to come.

I propose we commit \$50 million of the windfall annually over the next 20 years, which in addition to continuation of current debt service, will underwrite a \$1 billion Education Bond Issue. Of this, \$576 million will be dedicated to K-12. I also propose legislation that will authorize local boards of education to use their share of the public school fund created in the first year of this administration to support a capital improvements bond issue of up to \$850 million. Those two issues, when combined, total \$1.4 billion and will fund the replacement of any and all sub-standard classroom facilities, permanent or portable. I call this to your attention – a sub-standard classroom is a sub-standard classroom, period.

Funds will be available to connect every school to the statewide network known as Intranet to provide state-of-the-art technology to the classrooms of Alabama.

I propose also, the establishment of an Alabama Merit Scholarship Fund endowed with \$35 million of windfall revenue this year and \$65 million in each of the next four years. This fund will have a corpus of \$300 million and create more than 8,000 scholarships for Alabama students to attend college in their home state.

As you know, from time to time, I have gently insisted that the heads of our two-year and four-year institutions examine their priorities and expenditures and take action to ensure program viability and efficiency. With limited resources, good stewardship is the only way to guarantee long-term quality in undergraduate and post-graduate work, to strengthen our research capabilities and to meet the ever-increasing need for multiple skills job training. A need that clearly reflects competitive demands in today's ever-changing global market.

I recently received reports from Dr. Tom Meredith, chancellor of the University of Alabama System and Dr. Bill Muse, president of Auburn University.

Dr. Meredith has initiatives underway to address the maintenance of quality as well as increasing efficiencies. He has eliminated 102 academic programs from the system inventory over the last five years and more are on the way.

Dr. Meredith has created a joint purchasing alliance among his three universities that should produce at least \$10 million in annual savings. For example, UAB and University of Alabama bid their mainframe computer together this year and saved \$1.3 million.

Dr. Muse reports several significant areas of cost reduction the last two years. He has eliminated 270 full-time positions in non-teaching posts and 10 specialists in education degree programs by combining 11 programs into one. He has out-sourced the Drake Student Health Center, eliminating a \$466,000 budget deficit and saving at least \$675,000 annually.

I believe management is trying to improve efficiency in our two and four-year institutions. I appreciate the work by Dr. Muse and Dr. Meredith and the good example they have set.

I will propose legislation to fund a salary increase of 8.5 percent for all personnel in higher education whose salaries are paid from the Education Trust Fund.

Furthermore, I propose the following amounts for higher education:

First, \$88 million for capital improvement for post-secondary education to provide a skilled work force. A minimum of \$50 million must be used to meet the demonstrated needs of the manufacturing industries and the health care delivery systems in the state. An oversight committee with representatives from education, business, health and labor will be established to ensure wise use of funds.

Secondly, because agri-business is a cornerstone of our economy and industries such as Charoen Pokphand, a new poultry processing operation employing 1,500 people in Barbour and surrounding counties, need research support, I propose \$52 million dollars to provide animal and poultry diagnostic laboratories, agricultural and forestry research, and instructional and research facilities for veterinary medicine.

Thirdly, \$10 million to provide adequate facilities for education, training, and research in the forensic sciences, a major component in solving criminal cases.

Finally, \$300 million to provide capital improvements for public institutions of higher education.

Education is more than an ideal. Thomas Jefferson wrote, "The ultimate result of the whole scheme of education would be the teaching of all children of the state reading, writing and common arithmetic." Together, as parents, grandparents, educators and lawmakers, let us now take the necessary steps to make Alabama's public education system second to none.

Jefferson also founded the University of Virginia and said it would be, "... based on the unlimited freedom of the human mind, to explore and to expose every subject susceptible of its contemplation." We would do well to adopt his vision for our very own.

In my General Fund proposal, I again emphasize children's services. Last year as part of our Children's Initiative, I requested an additional \$5 million for Foster Family Enhancements, but you appropriated only \$1 million. I again ask you to support a \$5 million-appropriation for foster children.

I propose a \$10 million appropriation to fund the Children's Health Insurance Program to provide coverage for an estimated 50,000 children, and an \$8 million increase to Youth Services for additional private placements. In total, I am requesting over \$30 million new dollars for Children's initiatives.

We have increased the ranks of Public Safety by over 200 troopers.

We have increased our prison capacity by over 3,000 inmates, to ensure no criminal who should be locked up will be set free.

For three years we have run state government and increased funding for children, for prisons, for law enforcement, and for Medicaid — but with no new taxes and very little growth in General Fund revenue. We did this primarily with a freeze on hiring that through attrition reduced the number of state employees from 39,000 in December of 1994 to 35,000 in December of 1997, reducing payroll costs by approximately \$100 million dollars.

Cabinet members and state employees have worked hard to cut expenses in purchasing, contracting, communications, and travel and I thank them for making state government more efficient, and for saving the taxpayer millions of dollars. (Mr. Main – Mr. Baker – Cabinet)

I propose an 8 percent pay raise for state employees funded from savings created by two early retirement plans. Therefore, the pay raise and early retirement legislation should be tied together.

I have said before and I say again, "Honest government begins with honest elections." You passed our absentee ballot law last year, now I ask you to complete the job by passing Voter ID. I want to thank Secretary of State Jim Bennett and Attorney General Bill Pryor for their good work on this bill.

Again, I submit to you a constitutional amendment granting the people of Alabama the right of Initiative and Referendum, a concept that has enriched democracy in many states since 1902.

The primary responsibility of any government is to protect its citizens from violence and crime. Violent crime is down 16 percent, but we need to drive it down further. I think Attorney General Bill Pryor's crime package will do exactly that.

First, Alabama is the only state where the death penalty has a mandatory, two-stage appellate review and we need only to provide one automatic appeal to the Alabama Supreme Court.

Secondly, legislation needs to be passed that prohibits bail on appeal.

Thirdly, we need a better system for communicating juvenile crime information between law enforcement officers and school officials.

Fourthly, we need legislation to strengthen the Sexual Violent Predator law by confining any sexually violent predator who is still a danger to society.

And finally, we need several modifications to improve our Community Notification Law.

I urge you to pass these bills and strengthen Alabama's criminal justice system.

Welfare reform is working. Since 1996, Family Assistance caseloads are down by 36 percent. Food stamp caseloads have dropped by 15 percent. For the second year, DHR has broken all records for child support collections – over \$192 million in 1997.

Let me recognize your former colleague, Tony Petelos and commend him for a good start at the helm of the Department of Human Resources.

I now report on jobs. The second best year for industrial investments in state history was 1995, exceeded only by 1981. The two-year average for 1995 and 1996 was the highest for industrial investments in state history. The 1997 unemployment rates are the lowest in state history. Alabama is known worldwide as a good place to do business. British Steel, U.S. Gypsum, Boeing, Michelin,

Mercedes and countless other companies, large and small, attest to that fact. Industrial activity whether new or expanding thrives in a state where basic infra-structure is solid; good schools and good roads.

We are building good schools. Now, I propose a \$700 million Highway Bond Issue to build and widen roads vital to our economic growth and job creation, and to the safety and convenience of our citizens; \$170 million for counties; \$300 million dollars for bridges and resurfacing; \$300 million to accelerate construction of the Five Year Plan as approved by the Joint Highway Committee.

Alabama State Parks are one of our greatest assets. Thousands of Alabamians enjoy the parks, which are also one of our greatest tourist attractions. Therefore, I propose a \$100 million bond issue to put our park facilities in top shape.

Again, I ask you to enact a tort reform package that consists of six bills aimed at addressing the fairness of the civil justice system. I particularly direct your attention to the need for a strong criminal fraud bill so that those who would swindle will know that they will face severe punishment. I also ask you to enact caps on punitive damages that are set at levels that are based in part on the size of a business. Five bills dealing with tort reform have passed the House on two prior occasions. I call on the Lieutenant Governor to FOCUS. FOCUS the attention of the Senate on Tort Reform so that each bill gets a vote on the Senate floor. No "ifs, ands or buts," about it – FOCUS!

I come now to the issue of federalism, a unique American concept that guarantees our freedom by separating the powers of government. The Establishment Clause of the First Amendment to the U.S. Constitution is very clear, "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise, thereof."

Therefore, when a state or federal court – a part of the non-law-making judicial branch of government, rules that an establishment of a national religion has occurred by posting the Ten Commandments on a courtroom wall without surrounding them with so-called historical items, or presenting a nativity scene in school without surrounding it with non-religious items such as Santa Claus, or offering a pre-game prayer by coaches and players or praying for the safety of our soldiers in harm's way by a class at school, or acknowledging God at a graduation ceremony without calling undue attention to God, such court has violated the U.S. Constitution to which you and I and all the Judges have taken an oath of office to uphold.

The Tenth Amendment to the U.S. Constitution reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

In my first administration, I defended three teachers in Mobile who were sued because they said a blessing in the school cafeteria, "God is great, God is good, let us thank Him for our food." At that time, Leon Jaworski, one of America's foremost constitutional authorities, wrote me as follows: "I have long felt that leaning on the Fourteenth Amendment for support in depriving the states from determining the propriety of religion in public schools is an abomination. It distorts the meaning of the Fourteenth Amendment and prostitutes its use."

A brilliant and courageous Federal Judge, Brevard Hand, followed the Constitution and ruled in our favor, and dismissed the case for lack of federal jurisdiction. Yes, Judge Hand was subsequently overruled by the U.S. Supreme Court by an 8 to 1 vote. The dissenting vote in our favor was cast by Justice William Rehnquist, now Chief Justice of the U.S. Supreme Court.

Today, across this land governors, U.S. Congressmen, U.S. Senators, State legislators, legal scholars, and the people are deeply concerned over reckless, illegal, and arrogant rulings by our imperial judiciary. I will be true to my conscience and my oath of office and resist illegal usurpation of authority by any court with all legal and political means I can muster. I ask you to join me in this resistance. I have outlined a strong agenda for Alabama. This legislative program is good for our families, and good for our future. Our commitment to Alabama in its 179th year should be to leave all partisan interests at the door. For this must be the place where the public interest rules and those we serve will be better for it.

Let us get the job done. I wish you the best in this session. Thank you and God bless Alabama.

ALABAMA LAWS
And Joint Resolutions
REGULAR SESSION, 1998

Act No. 98-1

H.J.R. 12 – Rep. Gaston

HOUSE JOINT RESOLUTION

**COMMENDING PATRICK F. GUYTON ON HIS OUT-
STANDING PROFESSIONAL ACHIEVEMENTS.**

WHEREAS, Patrick F. Guyton is most highly commended for his enthusiastic support and selfless contributions with the Child Advocacy Center, a national model in locating services for child abuse victims; and

WHEREAS, Mr. Guyton received his B.A. degree from the University of Southern Mississippi, earned three master's degrees, including two from the University of South Alabama and one from Springhill College, and pursued graduate work at the University of North Carolina in Chapel Hill; and

WHEREAS, as creator and first director of the Child Advocacy Center, he has presented child abuse issues at 16 national and regional conferences; and

WHEREAS, Mr. Guyton was the recipient of numerous honors and awards including the prestigious 1997 Service to Mankind Award for his significant and meritorious service to mankind presented by the Mobile Midtown Sertoma Club; and

WHEREAS, he also earned a well-deserved reputation for high standards of business and professional conduct as a staff member of United States Senator John C. Stennis, with the State Department of Human Resources in North Carolina and Special Resource office at Springhill College, and as a special assistant to the Dean of the College of Education at the University of South Alabama; and

WHEREAS, as Director of Development for the Catholic Archdiocese of Mobile, Mr. Guyton solved problems and offered help as a daily way of life; and

WHEREAS, his unique combination of talent and knowledge has made him a tremendous asset as a member of the Alabama

and American Professional Society on the Abuse of Children, National and Alabama Network of Children's Advocacy Centers, Alabama Task Force on Children's Justice, and the Child Welfare League of America; and

WHEREAS, as a result of his tireless hard work and unwavering commitment, Patrick F. Guyton has succeeded in compiling an impressive record of career achievements, a record that has earned for him the admiration and respect of those persons who have had the privilege of association with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby extended to Mr. Guyton, for whom a copy of this resolution shall be provided with sincere best wishes for continued success in his future endeavors.

Approved January 26, 1998

Time: 9:00 A.M.

Act No. 98-2

H.J.R. 13 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING MARILYN B. PACE AS RECIPIENT OF THE DISTINGUISHED PARENT TEACHER ASSOCIATION'S 1997 TEACHER OF THE YEAR AWARD.

WHEREAS, highest commendation is herein accorded Marilyn B. Pace as recipient of the Parent Teacher Association's 1997 Outstanding Secondary Teacher Award, a prestigious selection in recognition of outstanding professional contributions and achievements; and

WHEREAS, Ms. Pace, who received her B.S., M.Ed., and Master's Certification in School Guidance and Counseling from the University of South Alabama, has served in numerous capacities at Davidson High and Azalea Road Middle Schools with teacher training, curriculum development, and as student activities sponsor; and

WHEREAS, an active board member of the University of South Alabama Alumni Association, she serves the organization as a member of its Alumni Advisory Counsel, chair of the Alumni Scholarship Committee, and as secretary; and

WHEREAS, Ms. Pace's honors and awards are indicative of the high esteem in which she is held in the community; her professional

nominations include Who's Who in America's Outstanding Teachers, Mobile County Outstanding High School Teacher of the Year, and NWAR television's Teacher of the Week; and

WHEREAS, an exemplar of a caring teacher who is entirely devoted to the betterment of her profession, school, and students, she has received commendation from the University of South Alabama as an outstanding cooperating teacher from the College of Education; and

WHEREAS, Ms. Pace is impeccably qualified to hold the honored position of outstanding teacher, and has gained praise and recognition for her many innovative educational programs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Marilyn B. Pace is hereby most highly commended as recipient of the Parent Teacher Association's 1997 Outstanding Secondary Teacher Award, and it is further directed that she receive a copy of this resolution of sincere admiration and esteem.

Approved January 26, 1998

Time: 9:01 A.M.

Act No. 98-3

H.J.R. 14 – Rep. Gaston

HOUSE JOINT RESOLUTION

COMMENDING NANCY SHOQUIST OF MOBILE, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pleasure that the Alabama Legislature most highly commends and congratulates Nancy Shoquist of Mobile, Alabama, on her 500th win of the 1997 volleyball season; and

WHEREAS, for the last 16 years, Nancy Shoquist has ably served as Department Chair of Physical Education and Director of Female Athletics at St. Paul's Episcopal School and, over her successful tenure, has compiled a highly acclaimed list of achievements which include area and district tournament victories and a trip to the state tournament all 16 years; and

WHEREAS, she also has captured five State Championships in volleyball (1984, 85, 86, 92, and 95), and five Runner-ups (1990, 91, 93, 94 and 97), and has been selected Coach of the Year seven times (1984, 85, 86, 90, 91, 92, and 95); and

WHEREAS, in addition, she has five State Championships in tennis (1985, 86, 87, 90, and 93), and seven Runner-ups (1983, 84, 88, 89, 91, 92, and 95), and has received 10 Coach of the Year honors in tennis (1983, 85, 86, 87, 88, 89, 90, 91, 92, and 95); now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on the momentous occasion of her 500th victory of the 1997 volleyball season, highest commendation and heartiest congratulations are hereby extended to Nancy Shoquist of Mobile, Alabama, for whom a copy of this resolution shall be provided.

Approved January 26, 1998

Time: 9:02 A.M.

Act No. 98-4

H.J.R. 15 – Rep. Johnson (R)

HOUSE JOINT RESOLUTION

COMMENDING CARL L. LIMBAUGH ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of Carl L. Limbaugh to the pharmacists of this state and their customers, who retired after more than 24 years of service with the Alabama State Board of Pharmacy; and

WHEREAS, Mr. Limbaugh, who is married to his loving wife, Doris, has garnered numerous awards in recognition of his outstanding accomplishments including recognition as National Outstanding Drug Inspector in 1989, the prestigious National Association of Boards of Pharmacy Distinguished Service Award, and was elected a Life Member of the Alabama Association of Polygraph Examiners; and

WHEREAS, it is also noted with pride that a resolution was passed by the Alabama Pharmaceutical Association in 1992 recognizing outstanding performance of duty by Alabama drug inspectors and commending the Board of Pharmacy for selecting drug inspectors, such as Mr. Limbaugh, who reflect great credit upon themselves and the Board; moreover, Mr. Limbaugh's wisdom and knowledge of the pharmacy law and his ability and willingness to address the concerns of consumers have played a major role in the successful operation of the State Board of Pharmacy; and

WHEREAS, Mr. Limbaugh also served with honor and distinction with the Birmingham Police Department for 25 years, working with the narcotics department since its inception; he retired as a Lieutenant and ably reflected the best in a public servant as assistant to the director of the United Narcotics Detail Operation (UNDO); and

WHEREAS, through his continued perseverance and commanding skills, he was directly responsible for the largest buy of amphetamines and largest heroin buy and seizure ever made in Jefferson County, as well as responsible for successfully solving more than 250 of the 450 narcotic cases by UNDO; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Carl L. Limbaugh is indeed commended on his exemplary service to the Alabama State Board of Pharmacy, the many accomplishments of his career, and the magnitude of his community service, and it is further directed that he receive a copy of this resolution of highest esteem.

Approved January 26, 1998

Time: 9:03 A.M.

Act No. 98-5

H.J.R. 17 – Rep. Crigler

HOUSE JOINT RESOLUTION

COMMENDING MRS. MARY GERTRUDE SEAMAN ON HER OUTSTANDING COMMUNITY ACHIEVEMENTS.

WHEREAS, it is with warm and heartfelt congratulations that Mrs. Mary Gertrude Seaman is commended for her enthusiastic and outstanding contributions to the Bayou La Batre Community; and

WHEREAS, Mrs. Seaman, who was the oldest of two daughters born to Pat and Armenia Andrews on January 31, 1916, in Mobile, Alabama, was selected to share her natural musical talents by playing and singing “The Bells of Saint Mary’s” to her 1933 graduating class at Alba High School, and wrote the words to the Alba High School Alma Mater, “Hail Oh Hail to Dear Old Alba”; and

WHEREAS, treating each day as a special day to see what she can accomplish, Mrs. Seaman continues her faithful and active involvement as a talented pianist and Sunday School, Vacation

Bible School, and Girls' Auxiliary teacher at First Baptist Church in Bayou La Batre; and

WHEREAS, known for her delicious chicken and oyster gumbo, Mrs. Seaman, affectionately known as "Boots" or "Big Boots," is a mentor and true servant of the community, and has a wealth of knowledge and keen sense of humor; and

WHEREAS, Mrs. Mary Gertrude Seaman, and her late husband, Edward Seaman, had the joy of parenting four children, Glen Seaman, Patricia Maples, Diane Seaman, and Barton Seaman; she also is the extremely proud grandmother of her seven grandchildren and five great grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the Bayou La Batre Community, Mrs. Seaman, whom we hold in warmest personal regard, is hereby presented a copy of this resolution of highest praise and esteem.

Approved January 26, 1998

Time: 9:04 A.M.

Act No. 98-6

H.J.R. 18 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. LOUIS JOHN REYER OF GRAND BAY, ALABAMA, ON THEIR LONG AND HAPPY MARRIAGE.

WHEREAS, the well being of our nation depends on the strength of its families, and it is with great pleasure that we recognize Mr. and Mrs. Louis John Reyer of Grand Bay, Alabama, who celebrated 52 years of marriage on December 18, 1997; and

WHEREAS, Louis John Reyer, born in Poplarville, Mississippi, the son of Joe and Edna Reyer, and Carmen Chappell, a native of Hattiesburg, Mississippi, and the daughter of Zula and Willie Chappell, were joined in Holy matrimony on December 18, 1945; and

WHEREAS, beloved and longtime residents of Grand Bay, Alabama, Mr. and Mrs. Reyer have distinguished themselves as highly respected members of their community, and to all those who have witnessed their devotion to God, family, work, and to each other, their lasting partnership has indeed served as an enviable example to be admired and emulated by others; and

WHEREAS, a veteran of the United States Army in World War II, Mr. Reyer was a valued employee of Reliance Manufacturing Company in Hattiesburg for 19 years, Mississippi Chemical Company in Pascagoula for 20 years, and retired in 1985; and

WHEREAS, the couple has lived for 33 years in the Grand Bay community where they continue to enjoy life to the fullest, rejoicing in the lives and accomplishments of their children, daughter, Carolyn Sue, and son, Monty Richard, and in the love they receive from their four grandchildren and four great-grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to their long and happy lives together, blessed with family and friends, we hereby extend highest commendation and congratulations to Mr. and Mrs. Louis John Reyer of Grand Bay, Alabama, and, by copy of this resolution, express sincere best wishes for continued good health and happiness in the years to come.

Approved January 26, 1998

Time: 9:05 A.M.

Act No. 98-7

H.J.R. 19 – Rep. Crigler

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF PHILLIP HALL CRIGLER OF PANAMA CITY, FLORIDA.

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of Phillip Hall Crigler of Panama city, Florida, at the age of 87 years; and

WHEREAS, a native of Crawford, Mississippi, and graduate of Texas A & M University, Mr. Crigler received his master's degree from the University of Alabama, and served his country with honor as a Lieutenant Colonel in the United States Air Force; and

WHEREAS, Mr. Crigler, along with his brother T. O., founded C & G Sporting Goods, and exemplified the highest standards of professionalism as a member of the Panama City Kiwanis Club and Gideons International; and

WHEREAS, he also was a faithful and devoted deacon emeritus and Sunday School teacher at First Baptist Church in Panama City; and

WHEREAS, left to cherish the memory of Phillip Hall Crigler is his loving wife, Agnes; stepson, Don E. Henneker; and stepgrandson, Ward, a student at the University of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That deepest sympathy is hereby extended to Mrs. Crigler, for whom a copy of this resolution of sincere condolence shall be provided.

Approved January 26, 1998

Time: 9:06 A.M.

Act No. 98-8

H.J.R. 20 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING PETER SPEARS FOR OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of Peter Spears with the Alabama Veterans Affairs Association (AVAA); and

WHEREAS, joining the AVAA in 1979, Mr. Spears began service as a board member in 1982, served with distinction as its first Black president in 1984, and was a peerless leader and coordinator of Baffle Raffle for 13 years; and

WHEREAS, his integrity and concern for veterans have also proven an invaluable asset as Vice President of the American Association of Minority Veteran Program Administrators; and

WHEREAS, in recognition of exceptional achievement, Mr. Spears received the 1990 National Association of Veteran Program Administrator's Award for distinguished service; and

WHEREAS, Peter Spears, whose record of leadership and exceptional professional achievement with the Alabama Veterans Affairs Association, has earned the respect and admiration of the people of the State of Alabama through his hard work and selfless commitment; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service with the Alabama Veterans Affairs Association, we most highly commend Peter Spears and do further direct that he receive a copy of this resolution as an expression of our tribute and esteem.

Approved January 26, 1998

Time: 9:07 A.M.

Act No. 98-9

H.J.R. 21 – Rep. Sims

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF CALIFORNIA CONGRESSMAN SONNY BONO.

WHEREAS, recorded with deep and abiding sorrow is the tragic death of California Congressman Sonny Bono who died January 5, 1998, at the age of 62 years; and

WHEREAS, a world-renowned entertainer and songwriter, he provided years of musical enjoyment to countless individuals with his former wife, Cher, during the 1960s and 1970s with many recordings including "I Got You, Babe" and "The Beat Goes On"; and

WHEREAS, before his 1994 election to Congress, he provided exemplary leadership as Mayor of Palm Springs, California; Congressman Bono also was a highly successful fundraiser for the GOP, attending 50 fundraisers during 1997, and received bi-partisan praise for his hard work and dedication while serving with the House Judiciary Committee; and

WHEREAS, Sonny Bono was not only a legendary entertainer who contributed immeasurably to the entertainment industry, but also was an individual who reached out in life to grasp its very essence, and in so doing enriched the lives of all with whom he was associated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby grievously mourn the death of Congressman Sonny Bono and extend heartfelt sympathy to his loving wife, Mary Whitaker; son, Chesare; and daughter Chianna; and other family members and friends.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to his wife, Mary Whitaker, with our sincere condolences.

Approved January 26, 1998

Time: 9:08 A.M.

Act No. 98-10

H.J.R. 25 – Rep. Smith

HOUSE JOINT RESOLUTION

COMMENDING THE CLANTON, ALABAMA, RECYCLE PROGRAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pleasure that the Alabama Legislature extends highest commendation to the Clanton, Alabama, Recycle

Program on its selection as "Small City Recycling Program of the Year" by the Alabama Recycle Coalition; and

WHEREAS, under the capable leadership and guidance of recycling director, James Lumpkin, and with the loyal support of city officials and the dedicated hard work of local citizens, businesses, and agencies, the Clanton Recycle Program has realized outstanding growth and progress since its inception in 1991; and

WHEREAS, last year alone, the recycle center processed more than 1.18 million tons of recyclable materials, and this year is expected to recycle more than 1.4 million tons— an accomplishment of inestimable benefit to the community, and one which is deserving of widespread public recognition and tribute; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the community, and on its selection as "Small City Recycling Program of the Year," highest commendation is hereby accorded the Clanton, Alabama, Recycle Program.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided for Mayor Billy Joe Driver and the Clanton City Council, recognizing their initiation of the program, and as a measure of our tribute and esteem.

Approved January 26, 1998

Time: 9:09 A.M.

Act No. 98-11

H.J.R. 26 – Rep. Laird

HOUSE JOINT RESOLUTION

CONGRATULATING TERRY AND LISA GAY OF RANDOLPH COUNTY, ALABAMA, ON THE BIRTH OF QUADRUPLTS.

WHEREAS, the Legislature of Alabama extends heartiest congratulations to Terry and Lisa Gay of Randolph County, Alabama, on the birth of quadruplets, Tyler Ray, Clayton Eugene, Jacob Tucker, and Gabrielle, on December 29, 1997; and

WHEREAS, beautiful and healthy, and weighing in at 3 pounds, 15 ounces; 4 pounds, 3 ounces; 4 pounds and 3.5 ounces; and 3 pounds, 10.5 ounces, respectively, tiny Tyler Ray, Clayton Eugene, Jacob Tucker, and Gabrielle have brought untold joy and pleasure to their excited parents, Lisa and Terry, and to their two older sisters, Amy and Ashley; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby

extend heartiest congratulations to Mr. and Mrs. Terry Gay of Randolph County, Alabama, and direct that they receive a copy of this resolution that they may know of our shared joy on this momentous occasion.

Approved January 26, 1998

Time: 9:10 A.M.

Act No. 98-12

H.J.R. 27 – Rep. Crigler

HOUSE JOINT RESOLUTION

COMMENDING THE FIRST BAPTIST CHURCH OF THEODORE, ALABAMA, ON THE OCCASION OF ITS CENTENNIAL ANNIVERSARY CELEBRATION.

WHEREAS, on October 25, 1997, members, friends, and special guests assembled to celebrate the 100th Anniversary of First Baptist Church of Theodore, Alabama, and to give thanks for the many blessings and opportunities for service over the past 100 years; and

WHEREAS, this significant event in the life of First Baptist was an occasion being celebrated not only by the church membership, but by the community as well in thanksgiving for the impact First Baptist has made through the years on the community and its young people; it also provided an opportunity to reflect upon the many benchmarks in its long and glorious history, as well as the hopes and promise for the future; and

WHEREAS, since its origin in 1897, as a mission of Zion Baptist Church of Mobile, by a small group of Baptists who moved to Theodore from an area in Mobile known as Mertz Station, First Baptist has grown and flourished in all aspects of its ministry and witness, and has evolved from its original structure, which was destroyed by the hurricane of 1906, to its present new sanctuary dedicated October 27, 1985, and from a recorded membership of 31 in 1898 to include some 1,913 members today; and

WHEREAS, in its first 100 years of Christian service, First Baptist has played a prominent role in the spiritual, social, and moral life of the Theodore community, and is indeed to be praised on the accomplishments of its illustrious past, which stands as a solid rock upon which to build a bright and glorious future; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend First Baptist Church of Theodore, Alabama, on its Centennial Celebration, and its first 100 years of Christian ministry and service to the Theodore community, and direct that a

copy of this resolution be provided for appropriate presentation and church display.

Approved January 26, 1998

Time: 9:11 A.M.

Act No. 98-13

H.J.R. 28 – Rep. Clouse

HOUSE JOINT RESOLUTION

COMMENDING IAN BLACKBURN ON OBTAINING THE RANK OF EAGLE SCOUT.

WHEREAS, Ian Blackburn, a member of Boy Scout Troop 20 for four years, has successfully completed the requirements for the prestigious rank of Eagle Scout, scouting's highest honor, and will be recognized by a Court of Honor Ceremony at Saint John's Catholic Parish, Ozark, Alabama, on March 1,1998; and

WHEREAS, Ian earned this coveted rank through countless hours of hard work by earning 36 merit badges and has faithfully served as Patrol Leader, Assistant Senior Patrol Leader, Instructor, Historian, Bugler, and Troop Guide; and

WHEREAS, an exceptionally talented young man, he is an Ordeal member of Order of the Arrow, served on the staffs of Boy Scout Summer Camp, Woodlore Camping School, Webelos Resident Camp, and Cub Scout Day Camp, and built a loading dock for the Carroll High School Band for his community project toward earning Eagle Scout; and

WHEREAS, Ian Blackburn, in whom we take great pride, has indeed developed leadership ability and earned the esteem of his community and fellow scouts, and his scouting achievements reflect the highest ideals of American youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Ian is congratulated on his achievement of the rank of Eagle Scout and commended for his outstanding attainment in qualifying for this high honor.

BE IT FURTHER RESOLVED, That he receive a copy of this resolution of highest commendation, tribute, and esteem.

Approved January 26, 1998

Time: 9:12 A.M.

Act No. 98-14

H.J.R. 30 – Rep. Millican

HOUSE JOINT RESOLUTION

COMMENDING WINSTON COUNTY SUPERINTENDENT JACK HERRON UPON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, it is with utmost pride and pleasure that heartiest congratulations are herein extended to Winston County Superintendent Jack Herron for his distinguished professional career of deep dedication and commitment to the furtherance and support of public education for 36 years; and

WHEREAS, Mr. Herron, who received his B.S. and Master's Degrees, as well as an A.A. certification, from the University of Alabama, ably served as principal of Lynn School in Winston County for two years at the young age of 23 years, principal of Winston County High School for 18 years and Double Springs for three years, and established an unparalleled record for professional leadership as Winston County superintendent for eight years; and

WHEREAS, he not only gained praise and recognition for his innovative educational programs, but also for his aggressive building program and renewal of the school bus fleet; Mr. Herron also was instrumental in the construction of 30 new classrooms, covered walkways, and the acquisition of 31 new buses, including two special education buses; and

WHEREAS, Mr. Jack Herron is the loving husband of Sheilah Prescott, his supportive wife who taught for many years at Winston County High School; they are the very proud parents of two children, Scott, a police officer, and Amanda, a speech and language pathologist; and

WHEREAS, as a result of his tireless hard work and unwavering commitment, Mr. Herron has succeeded in earning the admiration and respect of those students, faculty, and parents who have had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his extraordinary service as superintendent of Winston County schools, we hereby most highly commend Mr. Jack Herron, for whom a copy of this resolution shall be provided as an expression of our tribute and esteem.

Approved January 26, 1998

Time: 9:13 A.M.

Act No. 98-15

H.J.R. 31 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING THE BILLINGSLEY HIGH SCHOOL FOOTBALL TEAM ON ITS 1997 1-A STATE CHAMPIONSHIP.

WHEREAS, the Billingsley High School Football Team won the 1997 1-A State Championship with a spectacular 28-8 win over Westbrook Christian, thus bringing immense happiness and pride to the local community and state and, in recognition thereof, the team members, the members of the coaching staff, and all of those individuals with the team are deserving of special public commendation; and

WHEREAS, representing the culmination of an impressive list of achievements by the Billingsley High School Football Team, the Billingsley Bears celebrated their state championship at Legion Field in Birmingham, Alabama, and also were part of the Super Six Championship; and

WHEREAS, Head Coach James Carter, who is widely acknowledged as an outstanding high school coach, and his assistant coaches Gerald Carter, Dewey Skidmore, and Walter Hunter have devoted countless hours to training and emphasizing good sportsmanship to team members, and are known for the positive impact they have had upon the young students under their tutelage; and

WHEREAS, with every game played in the spirit and tradition of good sportsmanship and fair play, each member of the team is to be praised for his integral part in achieving this coveted goal; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Representative H. Mac Gipson, Jr., and Senator Wendell Mitchell join the Alabama Legislature in congratulating the Billingsley High School Football Team upon winning the 1997 1-A State Football Championship, and it is further directed that a copy of this resolution be presented to Coach Carter for appropriate school display.

Approved January 26, 1998

Time: 9:14 A.M.

Act No. 98-16

S.J.R. 4 – Senators Butler and Barron

SENATE JOINT RESOLUTION

COMMENDING CARL L. LIMBAUGH ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of Carl L. Limbaugh to the pharmacists of this state and their customers, who retired after more than 24 years of service with the Alabama State Board of Pharmacy; and

WHEREAS, Mr. Limbaugh, who is married to his loving wife, Doris, has garnered numerous awards in recognition of his outstanding accomplishments including recognition as National Outstanding Drug Inspector in 1989, the prestigious National Association of Boards of Pharmacy Distinguished Service Award, and was elected a Life Member of the Alabama Association of Polygraph Examiners; and

WHEREAS, it is also noted with pride that a resolution was passed by the Alabama Pharmaceutical Association in 1992 recognizing outstanding performance of duty by Alabama drug inspectors and commending the Board of Pharmacy for selecting drug inspectors, such as Mr. Limbaugh, who reflect great credit upon themselves and the Board; moreover, Mr. Limbaugh's wisdom and knowledge of the pharmacy law and his ability and willingness to address the concerns of consumers have played a major role in the successful operation of the State Board of Pharmacy; and

WHEREAS, Mr. Limbaugh also served with honor and distinction with the Birmingham Police Department for 25 years, working with the narcotics department since its inception; he retired as a Lieutenant and ably reflected the best in a public servant as assistant to the director of the United Narcotics Detail Operation (UNDO); and

WHEREAS, through his continued perseverance and commanding skills, he was directly responsible for the largest buy of amphetamines and largest heroin buy and seizure ever made in Jefferson County, as well as responsible for successfully solving more than 250 of the 450 narcotic cases by UNDO; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Carl L. Limbaugh is indeed commended on his exemplary service to the Alabama State Board of Pharmacy, the many accomplishments of his career, and the magnitude of his community service, and it is further directed that he receive a copy of this resolution of highest esteem.

Approved January 26, 1998

Time: 9:15 A.M.

Denton, Dial, Dixon,
 Escott-Russell, Figures,
 Ghee, Hale, Hill, Langford,
 Lindsey, Lipscomb, Little,
 McClain, Mitchell,
 Mitchem, Myers, Poole,
 Roberts, Sanders, Smith,
 Smitherman, Steele,
 Waggoner and Windom

SENATE JOINT RESOLUTION

CONGRATULATING DON SUTTON ON HIS ELECTION TO THE MAJOR LEAGUE BASEBALL HALL OF FAME.

WHEREAS, the greatly anticipated election of Clio, Alabama, native Don Sutton to the Major League Baseball Hall of Fame became a reality on January 5, 1998, thus assuring his enshrinement for posterity as one of the truly great players of the game; and

WHEREAS, Sutton's major league career spanned an amazing 23 seasons from 1966 to 1988, the seventh longest in league history, during which he hurled 324 winning games and amassed a stellar 756 starts; and

WHEREAS, Sutton pitched his first 15 seasons and his last season with the Los Angeles Dodgers, and it is the Dodger Blue he will wear in Cooperstown; and

WHEREAS, during his long career, which also included playing for Milwaukee, California, Houston, and Oakland, Sutton posted an impressive 324-256 record, a .559 winning percentage; his ERA was 3.26; he ranks fifth in strikeouts with 3,574, and seventh in innings pitched with 5,281; and he collected 100 or more strikeouts in 21 straight seasons; and

WHEREAS, following his retirement, Sutton has lived in Atlanta, Georgia, where he is a popular broadcaster for the Atlanta Braves; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily commend baseball-great and native son Don Sutton, and share in his pride on being voted by the Baseball Writers Association for induction into the Major League Baseball Hall of Fame.

RESOLVED FURTHER, That a copy of this resolution be provided to Don Sutton in highest praise and esteem for his outstanding contributions to the game of baseball.

Approved January 26, 1998

Time: 9:16 A.M.

Act No. 98-18

S.J.R. 9 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING ELIZABETH WALTER STEWART OF MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, realizing the importance and desirability of promoting scholarship, leadership, and the achievement of excellence among Alabama's youth, recognizes with highest commendation Miss Elizabeth Walter Stewart of Montgomery, Alabama, for her many notable accomplishments, and as a 1997 YMCA Youth and Government Program participant; and

WHEREAS, a student at Jefferson Davis High School, and the sixteen-year-old daughter of Ms. Beth D. Stewart of Montgomery, Miss Stewart has played an active leadership role in numerous YMCA programs and activities over her high school career including YMCA Youth Legislature, YMCA Youth in City, YMCA Leaders Club, YMCA Tri-Hi-Y, and YMCA Man of the Year; she has been equally active in student activities such as Student Council, Key Club, Youth in Government, and softball, and was a nominee for the Jimmy Hitchcock Award in 1996; and

WHEREAS, she also is an active member of First Baptist Church, where she is a member of the youth council and youth choir, and has clearly demonstrated her compassion and concern for others through her volunteer efforts with such worthy organizations as Habitat for Humanity, Faith Rescue Mission, the Montgomery Area Council on Aging, and the Montgomery Advertiser Annual Christmas Project; and

WHEREAS, indeed, Elizabeth Stewart is an extraordinary young Alabamian of whom we are justly proud who brings great credit not only to herself but to her family, school, and community as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on her most recent accomplishment as a 1997 YMCA Youth and Government Program participant, highest commendation is hereby bestowed upon Miss Elizabeth Walter Stewart of Montgomery, Alabama, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved January 26, 1998

Time: 9:17 A.M.

Act No. 98-19

S.J.R. 10 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING LANEY A. FITZGERALD OF PIKE ROAD, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, realizing the importance and desirability of promoting scholarship, leadership, and the achievement of excellence among Alabama's youth, recognizes with highest commendation Miss Laney A. Fitzgerald of Pike Road, Alabama, for her many notable accomplishments, and as a 1997 YMCA Youth and Government Program participant, and

WHEREAS, a student at Jefferson Davis Senior High School in Montgomery, Laney Fitzgerald has played an active role in numerous extracurricular activities over her high school career including Key Club, Student Council, National Honor Society, Spanish Honor Society, Mu Alpha Theta Math Honor Society, DECA Club, and in a number of leadership capacities such as president of the Tri-Hi-Y Club and the Jefferson Davis Youth and Government Club, Sergeant at Arms, Leaders Club, and City Councilman, Youth in City; and

WHEREAS, indeed, Laney Fitzgerald is an exceptional young Alabamian of whom we are justly proud who brings great credit not only to herself but to her family, school and community as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on her most recent accomplishment as a 1997 YMCA Youth and Government Program participant, highest commendation is hereby bestowed upon Miss Laney A. Fitzgerald of Pike Road, Alabama, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved January 26, 1998

Time: 9:18 A.M.

Act No. 98-20

S.J.R. 11 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING ELIZABETH RANDALL WILDER OF MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, realizing the importance and desirability of promoting scholarship, leadership, and the achievement of excellence among Alabama's youth, recognizes with highest commendation Miss Elizabeth Randall Wilder of Montgomery,

Alabama, for her many notable accomplishments, and as a 1997 YMCA Youth and Government Program participant; and

WHEREAS, a senior at The Montgomery Academy, and the daughter of George Randall Wilder and Madeliene Gaston Wilder, Miss Wilder has played an active leadership role in numerous extracurricular activities over her scholastic career including French Club, Amnesty International, H.E.A.R.T., Forensics Team, Government Club, and Thursday morning Bible study, and has been inducted into Cum Laude and French Honor Society; received such distinctions and awards as High Honor Roll, Mu Alpha Theta, 6th place in the state in duo interpretation, Forensics, and 7th place in the state in the National French contest and the State Mathematics Competition, among other honors and awards; and

WHEREAS, additionally, she has been actively involved in tutoring for underprivileged children, the Tuesday morning Bible study, and children's worship leader at church, and as a member of Tri-Hi-Y, Youth Leadership Montgomery, Leaders Club, Youth Judicial (top ten defense teams), and Youth-In-City (elected city councilperson, awarded Best Participant Award), among numerous other activities; and

WHEREAS, indeed, Elizabeth Wilder is an exceptional young lady of whom we are justly proud who brings great honor not only to herself but to her family, school and community as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on her most recent accomplishment as a 1997 YMCA Youth and Government Program participant, highest commendation is hereby bestowed upon Miss Elizabeth Randall Wilder of Montgomery, Alabama, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved January 26, 1998

Time: 9:19 A.M.

Act No. 98-21

S.J.R. 12 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING MISS WALTON SAVAGE OF MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to acknowledge and commend young Alabamians of extraordinary achievement, it is with great pleasure that the Legislature of Alabama recognizes Miss Walton Savage of Montgomery, Alabama; and

WHEREAS, among numerous accomplishments over her scholastic career, Miss Savage, a senior at Montgomery Academy, has played a prominent leadership role in the YMCA Youth in Government Program for the past four years; she has served with distinction in such capacities as Secretary-Historian for the Montgomery Academy Government Club; as a member of the Youth Legislature, the YMCA Man of the Year Committee, and the Governors Cabinet for the past two years; as councilwoman for the 1997 Youth in City Program; and as a principal participant in the YMCA Youth Judicial Competition, in which her team ranked 2nd Place Defense in the State in 1997; and

WHEREAS, additionally, Miss Savage, who is active in all phases of youth activity, and is a member of Outstanding High School Students of America, and Who's Who Among American High School Students, was nominated by the Montgomery Academy faculty as a participant in the Alabama World Affairs Council's Great Decisions Program, and chosen by her peers as "Best Personality," Class of 1998, among numerous other honors and awards; and

WHEREAS, Miss Savage is also a worthy exemplar in service to her community and those in need as a member of the HEART Club, First United Methodist Church, and the Fellowship of Christian Athletes; and

WHEREAS, indeed, Miss Savage is deserving of highest praise for her unswerving commitment to excellence, and her accomplishments are a great credit not only to herself, but to her parents, school, community, and state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation is hereby extended to Miss Walton Savage of Montgomery, Alabama, for whom a copy of this resolution shall be provided with sincere best wishes for ever continuing success in all future pursuits and life's endeavors.

Approved January 26, 1998

Time: 9:20 A.M.

Act No. 98-22

S.J.R. 13 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING STEPHEN S. PHELAN, JR., ON HIS OUTSTANDING ATHLETIC ACCOMPLISHMENTS AND ON BEING NAMED MOST VALUABLE PLAYER IN THE 1997 BLUE-GRAY CLASSIC GAME.

WHEREAS, the Alabama Legislature notes with pride and honor the outstanding athletic achievements of Stephen S. Phelan, Jr., a 5'10", 186 pound defensive back with the University of Virginia (UVA), the most valuable player and most outstanding defensive player for the South squad at the Blue-Gray game on December 25, 1997, in Montgomery, Alabama; and

WHEREAS, a native Montgomerian, Stephen is the son of Carolyn and Stephen S. Phelan, D. M. D., and graduate of Trinity Presbyterian High School; he received a bachelor's degree with distinction majoring in history from the University of Virginia, and is currently pursuing postgraduate studies offered through Virginia's Curry School of Graduate Education and is admitted to the Virginia School of Law; and

WHEREAS, Stephen is the recipient of the prestigious Russell Academic Award, named the 1997 GTE First Team Academic All American, selected as a member of the 1997 GTE University Division Academic All District III Team, received the National Football Foundation and College Hall of Fame Fellowship, and was winner of the 1997 Burger King College Football Scholarship and the Jim Tatum and Joe Palumbo Awards; and

WHEREAS, an exemplar of extraordinary leadership ability and significant achievements, Stephen was one of the top student-athletes on the UVA squad, posting a 3.69 GPA during his career at Virginia, and has been named to the ACC Honor Roll for four consecutive years; he is a member of the Golden Key National Honor and Phi Eta Sigma Honor societies, as well as recipient of UVA's Gray-Carrington Scholarship Award, awarded to a student who excels in personal integrity, achievement, leadership, and humility; and

WHEREAS, the people of Alabama are proud to recognize a student-athlete the caliber of Stephen S. Phelan, Jr., who possess the skill and determination to succeed in his efforts, and who displays a keen sense of sportsmanship and competitive spirit; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Stephen S. Phelan, Jr., a young man of whom we are justly proud, upon his athletic achievements and on being named MVP for the 1997 Blue-Gray Classic Game and, by copy of this resolution, extend sincere best wishes for continued success.

Approved January 26, 1998

Time: 9:21 A.M.

Act No. 98-23

S.J.R. 14 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING MATTHEW FRANKLIN GLARROW OF MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, realizing the importance and desirability of promoting scholarship, leadership, and the achievement of excellence among Alabama's youth, recognizes with highest commendation Matthew Franklin Glarrow of Montgomery, Alabama, for his many notable accomplishments, and as a 1997 YMCA Youth in City Government councilman; and

WHEREAS, a student at Jefferson Davis High School, Matthew Franklin Glarrow has played an active leadership role in numerous school, community, and church activities over his scholastic career including Frazier United Methodist Church Youth Group, Habitat for Humanity, Tri-Hi-Y, Youth Legislature, Youth in City Government, Year Book staff, Homeroom Representative, Golf Team, and Chess Club, among others; and

WHEREAS, indeed, Matthew is an extraordinary young Alabamian of whom we are justly proud who brings great credit not only to himself but to his family, school, and community as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on one of his more recent accomplishments as a 1997 YMCA Youth in City Government councilman, highest commendation is hereby accorded Matthew Franklin Glarrow of Montgomery, Alabama, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved January 26, 1998

Time: 9:22 A.M.

Act No. 98-24

S.J.R. 15 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING TODD STRANGE UPON HIS SELECTION AS ALABAMA'S 1998 TIME MAGAZINE QUALITY DEALER.

WHEREAS, Todd Strange, President and CEO of Blount Strange Automobile Group in Montgomery, Alabama, has been selected as Alabama's 1998 Time Magazine Quality Dealer, the most prestigious honor in the retail vehicle business; and

WHEREAS, as Alabama's nominee for the National Time Magazine Quality Dealer Award, Mr. Strange will compete against dealers from 57 other states and large metropolitan areas and judged by professors from the University of Michigan's Business School, who will announce the winner at the 1998 NADA Convention in New Orleans; and

WHEREAS, Mr. Strange has participated in numerous civic endeavors including the Montgomery Area Chamber of Commerce, Montgomery Area Committee of 100, and Kiwanis Club; and

WHEREAS, he has demonstrated his leadership through his service on the board of directors and executive committee of South Trust Bank, as chairman and board of trustee member of the Capital City Club, the University of Montevallo Board of Trustees, Leadership Alabama Board of Directors, and as president of the UAB Montgomery Internal Medicine Residency Program; he currently serves as one of two directors of the ADAA's District 2; and

WHEREAS, Mr. Strange also has contributed to the success of his industry as chairman of the National Cadillac Dealer Council, and has received numerous awards on behalf of his dealerships including Royal Motor Company's Chrysler Award of Excellence and the Chrysler Pentastar Award; and

WHEREAS, under his expert leadership, Cobb Pontiac Cadillac attained Master Dealer status from both Cadillac and Pontiac, and Blount Strange Ford Lincoln Mercury was voted Montgomery's Best Car Dealership in the Montgomery Advertiser's survey for 1996; and

WHEREAS, Mr. Strange provides unselfish service and progressive attitudes while serving on various government-related committees studying local transportation needs and education initiatives, as well as tort and civil justice reform; and

WHEREAS, Todd Strange is married to his loving wife, the former Linda Davis, and they are the proud parents of two daughters, Elizabeth Burt and Jennifer Arrington; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Todd Strange is hereby most highly commended for his extraordinary service to Montgomery County and upon his selection as Alabama's 1998 Time Magazine Quality Dealer.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. Strange, whom we hold in highest personal regard, as an expression of tribute and esteem.

Approved January 26, 1998

Time: 9:23 A.M.

Act No. 98-25

S.J.R. 16— Senators Dial, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner and Windom

SENATE JOINT RESOLUTION

DESIGNATING JOE FRANK EDWARDS DAY ON JANUARY 22, 1998.

WHEREAS, January 22, 1998, is designated as Joe Frank Edwards Day to honor and pay tribute to Commander Joe Frank Edwards, Jr., for his outstanding professional career as a Top Gun pilot and astronaut with the National Aeronautics and Space Administration (NASA); and

WHEREAS, a 1980 graduate of the Naval Academy, Commander Edwards completed F-14 Tomcat training in 1983, flying combat escort and reconnaissance missions until his completion of the Top Gun program in 1984; and

WHEREAS, after ultimately distinguishing himself as an astronaut with NASA, Commander Edwards was selected for the MIR mission scheduled for January 22, 1998, and will photograph and film damaged parts of the space station, observe Earth from space, and perform a variety of *zerogravity experiments*; and

WHEREAS, the superior initiative, outstanding leadership, and personal endeavors displayed by Commander Edwards indeed reflect great credit upon himself and the United States Navy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we commend and most heartily congratulate Commander Joe Edwards on his invaluable military leadership and hereby designate Joe Frank Edwards Day on January 22, 1998.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Commander Edwards as recipient of this prestigious honor.

Approved January 26, 1998

Time: 9:24 A.M.

Act No. 98-26

S.J.R. 17 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING AMELIA HOPE BLACKWOOD OF MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Alabama Legislature, realizing the importance and desirability of promoting scholarship, leadership, and the achievement of excellence among Alabama's youth, recognizes with highest commendation Miss Amelia Hope Blackwood of Montgomery, Alabama, for her many notable accomplishments, and as a member of the 1997 YMCA Youth in Government Council; and

WHEREAS, a student at Jefferson Davis High School, Amelia Hope Blackwood has played an active leadership role in numerous YMCA programs and activities over her scholastic career including YMCA Youth Legislature, YMCA Tri-Hi-Y, YMCA Montgomery Leaders Club, YMCA Youth in City, and YMCA Man of the Year; she has been equally active in school, community, and church activities such as Jeff Davis High School Student Council, Key Club, Youth in Government, Davisinians, First United Methodist Church Vacation Bible School, and Montgomery Assembly, to name a few; and

WHEREAS, indeed, Amelia Hope Blackwood is an extraordinary young lady of whom we are justly proud who brings great honor not only to herself but to her family, school, and community as well; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, and on one of her more recent accomplishments as a 1997 YMCA Youth in Government Council member, highest commendation is hereby accorded Miss Amelia Hope Blackwood of Montgomery, Alabama, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved January 26, 1998

Time: 9:25 A.M.

Act No. 98-27

S.J.R. 18 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING MISS CHARLOTTE MONTIEL ON MONTGOMERY, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to acknowledge and commend young Alabamians of extraordinary achievement, it is with great pleasure

that the Legislature of Alabama recognizes Miss Charlotte Montiel of Montgomery, Alabama; and

WHEREAS, an exceptional young lady of outstanding talent and ability, Miss Montiel is a senior at Montgomery Academy in Montgomery; and

WHEREAS, over her high school career, among numerous accomplishments, Miss Montiel was elected mayor by her peers at the YMCA Youth in City program, campaigning on a platform of getting area high school leaders, SGA presidents, and class officers to attend city council meetings to represent the views of Montgomery youth; and

WHEREAS, further, as an active member of the YMCA Government Club, Miss Montiel participated in the 1997 YMCA Youth Judicial Competition, in which her team placed second in the state, and was selected to represent Alabama as a member of the National Mock Trial Team; she also serves as president of the Montgomery Academy Senior Class, and captain of the Forensics debate team; studies ballet at the Alabama Dance Theater; and is a member of the HEART Club, and the Spanish Honor Society, among numerous other involvements; and

WHEREAS, indeed, Miss Montiel is deserving of highest praise for her unswerving commitment to excellence, and her accomplishments are a great credit not only to herself, but to her parents, school, community, and state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation is hereby accorded Miss Charlotte Montiel of Montgomery, Alabama, a young Alabamian of whom we are justly proud, and for whom a copy of this resolution shall be provided.

Approved January 26, 1998

Time: 9:26 A.M.

Act No. 98-28

S.J.R. 19 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING JENNIFER MICHELLE WEBSTER FOR HER OUTSTANDING PARTICIPATION WITH THE 1997 YMCA YOUTH AND GOVERNMENT PROGRAM.

WHEREAS, it is with great pleasure that heartiest congratulations are herein extended to Jennifer Michelle Webster, an outstanding participant with the 1997 YMCA Youth and Government Program; and

WHEREAS, Jennifer, daughter of Brenda Petty and Richard Albert Webster, Jr., has served in leadership roles and been actively involved in school activities at Carver Magnet School for Creative Arts, and Baldwin Junior High and Jeff Davis High Schools; she currently attends Trinity Presbyterian School and is an enthusiastic member of the Spanish Club, President of Tri-Hi-Y, Vice President of Leaders, and active member of the Eastdale Mall Teen Team and was a contestant in the Junior Miss program; and

WHEREAS, an exceptionally bright and talented student, Jennifer also has admirably represented numerous other organizations including Student Council, Key Club and Youth and Government; she also was a page for the Alabama Senate and attended Youth Judicial and Youth Legislature; and

WHEREAS, Jennifer Michelle Webster is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of her outstanding participation with the 1997 YMCA Youth and Government Program, highest commendation is hereby bestowed upon Jennifer Michelle Webster, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved January 26, 1998

Time: 9:27 A.M.

Act No. 98-29

S.J.R. 22 – Senator Clay

SENATE JOINT RESOLUTION

COMMENDING GREATER FRIENDSHIP MISSIONARY BAPTIST CHURCH, TUSKEGEE, ALABAMA, ON THE OCCASION OF ITS 94TH ANNIVERSARY.

WHEREAS, a special Sunday, January 18, 1998, has been set aside to celebrate and commemorate the 94th Anniversary of Greater Friendship Missionary Baptist Church and its 94 years of Christian ministry and service to the Tuskegee community; and

WHEREAS, since its origin as an outgrowth of the Mt. Olive Baptist Church, and its first gathering of followers as one body in Christ under a "Bush Arbor," under the dynamic leadership of its

first pastor, the Reverend J. S. Kelsey, Greater Friendship Missionary Baptist has overcome many obstacles and undergone many changes over the years as it has grown and flourished in its membership, ministry, and witness, and this milestone occasion provides an opportunity to reflect upon these many significant benchmarks in its rich and glorious history; and

WHEREAS, also to be remembered in contemplating the past are the many pioneer members, as well as present members, who have served Greater Friendship Baptist with love and devotion over the years, and the dedicated leadership and service of former pastors, as well as Reverend McKinley Ross, the present pastor who continues in dynamic and spirit-filled guidance to lead his flock toward an even brighter church life; and

WHEREAS, for nearly a century, Greater Friendship Missionary Baptist Church has had significant impact on the spiritual and moral well-being of the Tuskegee community, and is indeed to be praised on the accomplishments of its illustrious past, which stand as a solid rock upon which to build a rich and glorious future; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That we hereby recognize with highest commendation the forthcoming 94th Anniversary observance of Greater Friendship Missionary Baptist Church, Tuskegee, Alabama, Sunday, January 18, 1998, and do further provide that a copy of this resolution be presented to Reverend McKinley Ross on behalf of the entire membership.

Approved January 26, 1998

Time: 9:28 A.M.

Act No. 98-30

S.J.R. 7 – Senator Barron

SENATE JOINT RESOLUTION

URGING THE UNITED STATES DEPARTMENT OF ENERGY AND THE TENNESSEE VALLEY AUTHORITY TO EVALUATE THE FEASIBILITY OF IMPLEMENTING TRITIUM PRODUCING CAPABILITIES AT THE BELLEFONTE NUCLEAR PLANT.

WHEREAS, this legislative body strongly endorses a thorough analysis of a proposed joint venture of the United States Department of Energy and the Tennessee Valley Authority to enable the Bellefonte Nuclear Plant to produce both tritium and electrical power; and

WHEREAS, highly cognizant that the citizens of Alabama have always supported a strong national defense, as well as a safe

environment, we think this unique multifaceted use of the Bellefonte Plant will ensure a reliable domestic of tritium, a key triggering component in nuclear weapons, in an economically efficient and environmentally safe fashion; and

WHEREAS, in addition to the impressive financial and national defense advantages, implementation of tritium making capabilities at the Bellefonte Plant would result in the employment of an additional 500 persons during the final phase of construction and would require the continued employment of numerous well-paid technicians; moreover, the Tennessee Valley Authority payments in lieu of taxes to the state once the plant is on line would produce an additional five million dollars, a significant financial gain that would provide an important economic stimulus to the Southeastern United States and North Alabama; and

WHEREAS, this legislative body concludes that modifying the final phase of construction of the plant to allow the production of this critical component of our national defense is a wise and prudent approach to addressing vital military, energy, and conservation concerns, and the technical, environmental, and budgetary advantages should be thoroughly explored and closely considered; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the United States Department of Energy, the Tennessee Valley Authority, and other interested parties are encouraged to completely evaluate the possibilities of including tritium production capabilities at the Bellefonte Nuclear Plant.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the Secretary of the United States Department of Energy, the chief officer of the Tennessee Valley Authority, and each member of Alabama's U. S. Congressional Delegation so that each recipient may know of our continuing interest in this important program.

Approved January 27, 1998

Time: 1:30 P.M.

Act No. 98-31

S.J.R. 24 – Senator Waggoner

SENATE JOINT RESOLUTION

CONGRATULATING MRS. LESSIE SPRADLEY ON THE CELEBRATION OF HER 100TH BIRTHDAY.

WHEREAS, it is indeed a pleasure to recognize Mrs. Lessie Spradley on the celebration of her 100th birthday and, upon this

auspicious occasion, she is deserving of special recognition and heartiest congratulations; and

WHEREAS, birthdays, of course, are special events in a person's life and we are grateful that Mrs. Spradley, a warm and gracious lady, has been blessed with such a great number of these special days; and

WHEREAS, Mrs. Spradley, who will celebrate her 100th birthday with family and friends at Beulah Baptist Church in Sterrett, Alabama, on February 1, 1998, continues to remain interested in the affairs of her community; and

WHEREAS, possessed with good health and a dry wit, Mrs. Spradley still enjoys working in her vegetable garden growing tomatoes, green beans, and squash, and receiving visits from her family and many friends, all of whom hold her in highest personal regard; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mrs. Lessie Spradley is indeed congratulated on her 100th birthday and, by copy of this resolution, extended sincere best wishes for many years of happiness and good health

Approved January 29, 1998

Time: 1:50 P.M.

Act No. 98-32

H.J.R. 62 – Reps. McMillan, Jackson,
Dolbare, Crigler,
Mitchell, Pringle, Gaston,
White, Turner, Dean,
Clark (W), Penry and
Warren

HOUSE JOINT RESOLUTION

COMMENDING DONALD W. BRADY ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Donald W. Brady, Executive Director of the South Alabama Regional Planning Commission, has served the commission, its member governments, and their citizens in the South Alabama Region with distinction since 1969, and it is appropriate at this time to highlight his many accomplishments, and to extend special honor and highest commendation; and

WHEREAS, the contributions of Mr. Brady to the South Alabama Regional Planning Commission have been invaluable, and he has fulfilled the duties of his office with professionalism and keen perception in managing the programs and affairs of the Commission in support of its member governments; and

WHEREAS, as a result of his tireless hard work and unwavering commitment to the commission, he has succeeded in compiling an impressive record of career achievements and made lasting contributions to the people of his community and state; and

WHEREAS, retiring after 29 consecutive years of devotion to the commission, Mr. Brady has garnered numerous awards in recognition of his accomplishments including the renaming of the Executive Board Room, the Donald W. Brady Executive Board Room; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Donald W. Brady is commended on his long and distinguished record of professional service and, by copy of this resolution, extended sincere best wishes for a rewarding and gratifying retirement with his loving wife and family as he brings to a close 29 years of dedicated service with the South Alabama Regional Planning Commission.

Approved January 29, 1998

Time: 1:51 P.M.

Act No. 98-33

H.J.R. 9 – Rep. Hammett

HOUSE JOINT RESOLUTION

SUSTAINING THE DISAPPROVAL BY THE JOINT COMMITTEE ON ADMINISTRATIVE REGULATION REVIEW OF THE REVENUE DEPARTMENT'S PROPOSED AMENDMENT TO RULE NO. 810-6-5-.26, ENTITLED "UTILITY PRIVILEGE OR LICENSE TAX REGULATION."

WHEREAS, the Revenue Department filed a "Notice of Intended Action," of a proposed amendment to Rule No. 810-6-5-.26, entitled "Utility Privilege or License Tax Regulation," which notice was published in the Alabama Administrative Monthly, dated August 29, 1997; and

WHEREAS, the Revenue Department certified to the Legislative Reference Service the adoption of an amendment to Rule No. 810-6-5-.26, on October 21, 1997, which was the subject of a review at a meeting of the Joint Committee on Administrative Regulation Review on October 23, 1997; and

WHEREAS, after hearing from interested persons, the Joint Committee, in accordance with Section 41-22-23, Code of Alabama 1975, disapproved the proposed amendment to Rule No. 810-6-5-.26, entitled "Utility Privilege or License Tax Regulation"; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the decision of the Joint Committee to disapprove the proposed amendment to Rule No. 810-6-5-.26, entitled "Utility Privilege or License Tax Regulation," is sustained.

Approved February 3, 1998

Time: 8:00 A.M.

Act No. 98-34

H.J.R. 24 – Reps. Pringle, Fuller, Curry,
Knight (J), Page, Kennedy,
Hammett, Venable, Dean,
Turner and Gipson

HOUSE JOINT RESOLUTION

REQUESTING THE STATE REVENUE DEPARTMENT TO STUDY THE POTENTIAL LOSS OF REVENUE IF BUSINESSES ARE ALLOWED A DEDUCTION FOR YEAR 2000 COMPUTER CONVERSION EXPENSES.

WHEREAS, most business taxpayers in this state will incur significant expenses for the conversion of their computer systems for the year 2000 and beyond; and

WHEREAS, the federal tax code allows a business expense deduction against income for these expenses; and

WHEREAS, we anticipate that corporations and other entities doing business in Alabama will seek a similar deduction against state income tax liability; and

WHEREAS, granting such an exemption at the state level would likely result in a significant loss of revenue to the State Treasury; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby request the State Revenue Department to study the potential reduction of tax revenues that would likely result from allowing a business expense deduction from income for expenses relating to converting computers for the year 2000 and beyond.

RESOLVED FURTHER, That a copy of this resolution be provided to the Commissioner of Revenue so that he may know of our concerns involving this important issue.

Approved February 3, 1998

Time: 8:01 A.M.

Act No. 98-35

H.J.R. 6 – Reps. Hawkins, Carns, Curry
and Gaines

HOUSE JOINT RESOLUTION

COMMENDING JUSTIN BARKLEY OF HOOVER,
ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, in a desire to acknowledge and commend young Alabamians of extraordinary achievement, it is with great pleasure that the Alabama Legislature recognizes Justin Barkley of Hoover, Alabama; and

WHEREAS, a young man of exceptional talent and ability, and a senior at Hoover High School, Justin Barkley received a composite ACT score of 36, the highest possible score on the college entrance exam, and one realized by only 74 of 960,000 1997 graduating seniors nationwide, as well as a 36 on each of the four tests that make up the exam, an accomplishment realized by less than half of those 74 students; and

WHEREAS, also, statewide, only two of the 27,000 students in last year's graduating senior class in Alabama earned composite scores of 36, and young Justin is apparently the first Alabama student to score a perfect score on each of the four exams since 1994; and

WHEREAS, in his accomplishment, this outstanding young man brings great honor not only to himself but to his parents, school, community, and state as well, and he is indeed deserving of highest praise for his unswerving commitment to excellence; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation is hereby accorded Justin Barkley of Hoover, Alabama, a young man of whom we are justly proud, and for whom a copy of this resolution shall be provided with sincere best wishes for every continuing success in all future pursuits and life's endeavors.

Approved February 3, 1998

Time: 8:02 A.M.

Act No. 98-36

S.J.R. 1 – Senator Bedford

SENATE JOINT RESOLUTIONMOURNING THE DEATH OF WILBUR CLARK BRAGG OF
FAYETTE, ALABAMA.

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of Wilbur Clark “Bill” Bragg of Fayette, Alabama, on November 14, 1997, at the age of 73 years; and

WHEREAS, Mr. Bragg served his country with honor as a naval aviator during World War II and later pursued studies at the University of Alabama; and

WHEREAS, he exemplified the highest standards of professionalism as owner of Flav-O-Rich Dairies, co-founder and president of First Federal Savings and Loan, and as an extraordinarily skillful businessman and founding partner in Bookland, Inc., which is now known as Books-A-Million; and

WHEREAS, after selling Flav-O-Rich in 1971, he became a founding partner and visionary force in Bookland in 1972, remaining with the company until 1987; and

WHEREAS, an active and devoted member of First Methodist Church of Fayette, he also served as chairman of the Finance, Pastor-Parish Relations, Endowment Fund, and Investment committees, and was a delegate to the North Alabama Conference of the United Methodist Church; and

WHEREAS, left to cherish the memories of Wilbur Clark Bragg are his wife, Beverly Smith Bragg; two daughters, Dabney B. Foshee and Martha B. Carroll; son, John R. Bragg; six grandchildren; and other devoted family members and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are indeed grieved by the death of Wilbur Clark Bragg, and extend heartfelt sympathy to his beloved wife, whose sorrow we share, and for whom a copy of this resolution shall be provided.

Approved February 3, 1998

Time: 8:05 A.M.

Act No. 98-37

S.J.R. 2 – Senator Bedford

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF FAYETTE COUNTY COM-
MISSIONER GWYN BELK.

WHEREAS, herein noted with deep and profound sorrow is the death of Commissioner Gwyn Belk, a long time resident of Belk, Alabama, on December 22, 1998, at the age of 71 years; and

WHEREAS, a native of Fayette County, Mr. Belk was born on September 24, 1926, to Sam and Essie Taylor Belk and was a faithful and devoted member of Belk Free Will Baptist Church; and

WHEREAS, after working tirelessly and with unselfish devotion with the county road department for 17 years, and as a successful grocery store operator in Belk, he was elected as a Fayette County Commissioner, exemplifying the highest standards of professionalism until his retirement in 1992; and

WHEREAS, left to cherish the memory of Commissioner Gwyn Belk are his loving wife, Margaret E. Glover Belk; daughter, Sheila Jones, son, Ricky Belk; three sisters, Betty Jo Wycuff, Olivia Yerby, and Christine Dodson; brother, Grafton Belk; four grandchildren and three great grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life and service of Gwyn Belk, and extend our deepest sympathy to his wife, Margaret Belk, for whom a copy of this resolution shall be provided that she may know of our shared sorrow in her great and inconsolable loss.

Approved February 3, 1998

Time: 8:06 A.M.

Act No. 98-38

S.J.R. 23 – Senators Mitchell and Freeman

SENATE JOINT RESOLUTION

KYOTO PROTOCOL NEGOTIATIONS, PRESIDENT CLINTON URGED NOT TO SIGN PROTOCOL.

WHEREAS, the United States is a signatory to the 1992 United Nations Framework Convention on Global Climate Change ("FCCC"), requiring the United States to reduce emissions of greenhouse gases by 7 percent from 1990 levels during the period 2008 to 2012, with potentially larger emission reductions thereafter; and

WHEREAS, President Clinton pledged on October 22, 1997, that the United States would not assume binding obligations in Kyoto unless key developing nations also meaningfully participated in this effort; and

WHEREAS, on July 25, 1997, the United States Senate adopted Senate Resolution No. 98 by a vote of 95-0, expressing the Sense of the Senate that, inter alia, "the United States should not be a signatory to

any protocol to or other agreement regarding, the Framework Convention on Climate Change . . . which would require the advice and consent of the Senate to ratification"; and

WHEREAS, developing nations are exempt from greenhouse gas emission limitation requirements in the FCCC, and refused in the Kyoto negotiations to accept any new commitments for greenhouse gas emission limitations through the Kyoto Protocol or other agreements; and

WHEREAS, economic impact studies by the U. S. Government estimate that legally binding requirements for the reduction of U. S. greenhouse gases to 1990 emission levels would result in the loss of more than 900,000 jobs in the United States, sharply increased energy prices, reduced family incomes and wages, and severe losses of output in energy-intensive industries such as aluminum, steel, rubber, chemicals, and utilities; and

WHEREAS, the failure to provide for commitments by developing countries in the Kyoto Protocol creates an unfair competitive imbalance between industrial and developing nations, potentially leading to the transfer of jobs and industrial development from the United States to developing countries; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, As follows:

1. That we urge President Clinton not to sign the Kyoto Protocol.
2. That, in the event that the United States signs the Kyoto Protocol, we urge the President to promptly submit the treaty to the United States Senate for its timely consideration.
3. That we urge the United States Senate to reject any proposed protocol or other amendment to the FCCC that is inconsistent with this resolution or that does not comply with United States Senate Resolution No. 98.
4. That President Clinton and each member of the Alabama Delegation in Congress be provided a copy of this resolution so that our sentiments and expectations will be carefully considered.

Approved February 3, 1998

Time: 8:07 A.M.

WHEREAS, the Alabama Legislature, recognizing the importance of the role of geology to the future growth of the State of Alabama, established the office of State Geologist of Alabama in a Joint Resolution signed by Governor Reuben Chapman on January 4, 1848; and

WHEREAS, in that role geology and the earth sciences are fundamental to society and our quality of life, being essential to the finding, developing, and conservation of Alabama's abundant, but limited, mineral, energy, biological, and water resources; and

WHEREAS, the understanding of geology and the earth sciences is necessary for our citizens to make wise decisions for land management and land use, and the knowledge of geology is crucial in the solving of environmental and ecological issues, thus providing the basis for the preparation and mitigation of natural hazards; and

WHEREAS, the Geological Survey of Alabama, the oldest scientific agency of the State of Alabama, has published more than 1,000 reports and maps, thereby contributing to the prosperity and future of the state by providing the citizens of Alabama, as well as national officials, with accurate information on Alabama's important mineral, water, energy, and biological resources; and

WHEREAS, in its 150 year history, the State of Alabama has had seven state geologists who have provided dedication, foresight, and longevity, as well as continuity of service to its citizens; and

WHEREAS, this tradition of dedicated service to the people of Alabama was initiated by Michael Tuomey, and continued by his six successors, Eugene Allen Smith, Walter B. Jones, Philip E. LaMoreaux, Thomas J. Joiner, Ernest A. Mancini, and present State Geologist, Donald F. Oltz; and

WHEREAS, the corps of dedicated, talented, and skilled employees of the Geological Survey of Alabama help to keep Alabama in the forefront of science and technology that will be required for the people of Alabama throughout the new millennium; and

WHEREAS, the Geological Survey of Alabama, the first state agency, and its sister agency, the State Oil and Gas Board, are celebrating the establishment of the Geological Survey of Alabama throughout 1998, and congratulations are herein extended to State Geologist, Donald F. Oltz, and the staff of the Geological Survey of Alabama for their professional and exemplary leadership; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby extended to the Geological Survey of Alabama,

its officers, and staff members, and, by copy of this resolution, our sincere best wishes for continued success.

Approved February 3, 1998

Time: 8:08 A.M.

Act No. 98-40

S.J.R. 28 – Senator Poole

SENATE JOINT RESOLUTION

CONGRATULATING THE ALICEVILLE HIGH SCHOOL YELLOW JACKETS AS ALABAMA'S 1997 CLASS 3-A CHAMPIONS.

WHEREAS, heartiest congratulations are herein extended to the Aliceville High School Yellow Jackets on their capture of the 1997 State Class 3-A Football Championship at Legion Field in Birmingham; and

WHEREAS, under the skillful leadership of head coach Jerry Dismuke, ably assisted by assistant head coach James Williams, athletic director Joe Hurst, and an outstanding coaching staff consisting of Quinton Prude, Alfonso Wilder, Terry Gandy, Chan Mullinex, Fred Woods, and Tony Jones, and in a dazzling display of talent and skill, the Aliceville High School Yellow Jackets defeated defending champion Colbert County 21-19 to claim the coveted title and crown; and

WHEREAS, their spectacular victory culminated their first championship season since 1948, with a remarkable 13-2 record, showcasing the exceptional skill and talent of head coach Jerry Dismuke, and his dedicated team of coaches and staff, and the committed will-to-win spirit of each player; and

WHEREAS, the 1997 Championship Yellow Jackets, each of whom contributed greatly to an outstanding team effort are John Windham, Randy Spruill, Demetrius Curry, Ronnie Bryant, Chris Fowler, Dornell Cousette, Korneas Wilkins, Danny Taylor, Nicholas Gipson, Hughie Little, Leron Little, Keith Plott, Kenya Curry, Johntrell Barnes, Tony Gaines, Eddie Garner, Barry Hill, Kendall Gibson, David Cousette, Robert Harris, Fredrick Woods, Jr., Derrick Howard, Antonio Lanier, Randall Gibson, Johnny Jackson, Dexter Manning, Michael Craig, Alanaser Hughes, Lamont Long, Isaac Jackson, Dammon Allen, Herman Giles, Henry Smith, Diallo Spencer, Will Howard, Curtis Coleman, Rico Murry, Demetrius Eddins, and Jermaine Shakespeare; and

WHEREAS, these fine young athletes of Aliceville High School have brought great honor to themselves, their school, and community, and are indeed deserving of highest praise for their outstanding efforts and contributions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend and congratulate Coach Jerry Dismuke, his outstanding team of coaches and staff, and the Champion Aliceville High School Yellow Jackets, and direct that copies of this resolution be provided for appropriate presentation and school display.

Approved February 3, 1998

Time: 8:09 A.M.

Act No. 98-41

H.J.R. 7 – Rep. Smith

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM T. THRASH UPON HIS INDUCTION INTO THE LIVING HALL OF FAME OF THE ORGANIZED LABOR AWARDS FOUNDATION.

WHEREAS, highest commendation and heartiest congratulations are herein extended to William T. (Truman) Thrash upon his induction into the Living Hall of Fame of the Alabama Organized Labor Awards Foundation at its annual ceremony in Bessemer, Alabama, on September 13, 1997; and

WHEREAS, Mr. Thrash provided unexcelled service for three years as assistant business manager of Operating Engineers 312 and served with honor and distinction for 22 years as its business manager; and

WHEREAS, he also received praise as president of the Birmingham Building Trades Council for 13 years, Alabama State Building Trades Council for 10 years, and for four years as president of the Southeastern Building Trades Council; and

WHEREAS, working equally as hard for three terms with the Chilton County Board of Commissioners and for one term on the Alabama State Board of Corrections, Mr. Thrash also contributed greatly as a member of the Alabama Education Study Commission for four years and as a respected labor member of the Tennessee-Tombigbee Waterway Authority for 16 years, and a valuable member of the Chilton County Rescue Squad; and

WHEREAS, after serving as chairman of the Birmingham Building Trades Towers for eight years, he ultimately retired in 1981 and is currently serving as an exemplar of extraordinary leadership ability as Trustee of the Local 312 Apprenticeship Fund; and

WHEREAS, a true servant of the community, William T. Thrash has worked diligently to serve in the best interests of his fellow citizens and has promoted a standard of excellence with the Alabama labor movement for over 50 years; now therefore,

BE IT RESOLVED, That upon his induction into the foundation's Living Hall of Fame, and in tribute to his outstanding professional service with labor unions, Mr. Thrash, who is held in highest personal regard, is hereby presented a copy of this resolution with sincere best wishes for future success.

Approved February 3, 1998

Time: 2:00 P.M.

Act No. 98-42

H.J.R. 33 – Rep. Crigler

HOUSE JOINT RESOLUTION

COMMENDING ANNETTE REHM OF MOBILE, ALABAMA,
FOR DISTINGUISHED SERVICE.

WHEREAS, it is appropriate that public recognition and highest commendation be extended to Annette Rehm of Mobile, Alabama, an outstanding educator and an outstanding leader in the field of education, on her retirement as principal of Castlen Elementary School; and

WHEREAS, Annette Rehm earned her B. A., M. A., and AA certification from the University of South Alabama, and, for almost three decades, served successively as a classroom teacher, Title I and ESAA resource teacher at Nan Gray Davis Elementary School; as an instructional specialist at Kate Shepard, Mertz Elementary, and Robbins Elementary School; and as assistant principal at Robbins Elementary School before assuming her position as principal at Castlen Elementary in 1988; and

WHEREAS, in addition to career responsibilities, Ms. Rehm has been an active member of St. Pius X Church, where she has served as a member of the St. Pius X Board of Education, and currently as Eucharistic Minister and as a member of Sodality, a ladies religious and social organization; and

WHEREAS, she also has served in many positions of leadership and in support of a number of professional organizations including the National Association of Elementary School Administrators, Alabama Association of Elementary School Administrators, Delta Kappa Gamma Society, International,

N.E.A., A.E.A., M.C.E.A., and the American Business Women's Association, Bienville Chapter; and has been recognized for her achievements by such honors and awards as Outstanding Young Educator (1977), Outstanding Teacher (1978), Castlen's Heart of Gold Award (1988), and Who's Who For Outstanding Young Women of America, among others; and

WHEREAS, indeed, throughout her lengthy and dedicated career, Annette Rehm has served as a worthy role model for all educational professionals, and the impact she has had upon the lives of countless young students has greatly contributed to their future as successful and responsible citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon the occasion of her retirement, and in tribute to outstanding devotion and service to education and, most particularly, to Castlen Elementary School, we hereby most highly commend Annette Rehm of Mobile, Alabama, for whom a copy of this resolution shall be provided with sincere regard and best wishes for the future.

Approved February 3, 1998

Time: 2:01 P.M.

Act No. 98-43

H.J.R. 46 – Reps. Carothers, Johnson (R), Hammett, Venable, Turnham, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull,

McAdory, McClammy,
 McDaniel, McKee, McMillan,
 Melton, Millican, Minnifield,
 Mitchell, Moore, Morrison,
 Morrow, Morton, Murphree,
 Newton (C), Newton (D),
 Page, Papucci, Parker (P),
 Parker (T), Payne, Penry,
 Perdue, Pringle, Robinson,
 Rogers (J), Rogers (M),
 Sanderford, Sanderson,
 Seibenhener, Sims, Smith,
 Spratt, Starkey, Thomas (D),
 Thomas (J), Townsends,
 Turner, Vance, Warren,
 White, Willis and Wren

HOUSE JOINT RESOLUTION

COMMENDING MAJOR RALPH H. COTTINGHAM ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Alabama State Trooper Ralph H. Cottingham has unselfishly served his community with great dedication and distinction for the past 30 years, and upon the occasion of his retirement on January 1, 1998, he is deserving of special recognition and highest commendation; and

WHEREAS, appointed as a State Trooper in May 1967, Trooper Cottingham earned promotion to the successive ranks of corporal, sergeant, and lieutenant; he was assigned to the Highway Patrol chief's office in 1983, and, in 1984, was promoted to captain and named assistant chief of the Highway Patrol; he ultimately received the highest merit system trooper rank of major in 1989 when he was appointed chief of the Driver License Division, where he served until his 1994 appointment as chief of the Administrative Division; and

WHEREAS, Major Cottingham also received the distinguished Law Enforcement Officer of the Year Award, and was instrumental in Public Safety development programs including the Felony Awareness Patrol, an aerial enforcement program, the Hazardous Materials Unit, and the implementation of the state's commercial driver licensing program; and

WHEREAS, highlights of his illustrious career include training with the Greater London Metropolitan Police, Scotland Yard, and the Hertfordshire Constabulary in England, organizing Public Safety's participation in Walk America, and providing escort and security for the Auburn University football coach, team, and band; and

WHEREAS, Major Ralph H. Cottingham is the devoted husband of Carolyn, his loving wife of 37 years; they are the proud parents of two children, Kathy and Glenn, and doting grandparents of Trey and Lauren; and

WHEREAS, Major Cottingham exemplifies the dedication of law enforcement officers throughout Alabama who seek to provide the highest level of service and protection to their communities; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Major Ralph H. Cottingham is congratulated on the occasion of his well-earned retirement and, by copy of this resolution, extended sincere gratitude and appreciation of the public.

Approved February 3, 1998

Time: 2:03 P.M.

Act No. 98-44

H.J.R. 48 – Reps. Penry and McMillan

HOUSE JOINT RESOLUTION

COMMENDING THE UNITED STATES SPORTS ACADEMY ON ITS 25TH ANNIVERSARY AND RECOGNIZING JANUARY 26-30, 1998, AS UNITED STATES SPORTS ACADEMY FITNESS WEEK.

WHEREAS, the United States Sports Academy, Alabama's only accredited graduate school of sports, has the mission of serving the nation and the world as a resource in sports education through programs of instructional research and service; and

WHEREAS, the United States Sports Academy has brought national and international attention and focus to sports fitness through education, and has had outstanding achievement in fitness education through a commitment to the values derived from education, training, and sports activities; and

WHEREAS, founded in 1972 by Dr. Thomas P. Rosandich, Ph.D., who has served with distinction as president and CEO of the Academy for 25 years, the United States Sports Academy serves the State of Alabama, nation, and world as a sports education resource for instruction, research, and service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby

commend the United States Sports Academy on the celebration of its 25th Anniversary, and also recognize the United States Sports Academy Fitness Week during January 26-30, 1998.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Dr. Thomas P. Rosandich for appropriate display with sincere best wishes for continued success.

Approved February 3, 1998

Time: 2:04 P.M.

Act No. 98-45

H.J.R. 51 – Rep. Millican

HOUSE JOINT RESOLUTION

COMMENDING BARTLEY CORBIN SEYMOUR FOR OUTSTANDING SERVICE TO THE COMMUNITY OF DOUBLE SPRINGS, ALABAMA.

WHEREAS, Bartley Corbin Seymour is to be commended after many years of unexcelled service as Mayor of the community of Double Springs, Alabama, and it is appropriate at this time to acknowledge his many significant accomplishments, and to extend special public recognition and congratulations for dedicated professional and civic leadership; and

WHEREAS, serving as Mayor for the community of Double Springs from 1988 to the present, Mr. Seymour has made significant and enduring improvements to his city, and his stewardship and guidance have resulted in an improved quality of life for all citizens; and

WHEREAS, as a result of his tireless hard work, selfless service, and unwavering commitment, Mr. Seymour has succeeded in compiling an impressive record of career and civic achievements including newly paved streets, added police personnel and equipment, including two fire trucks and a police fleet of four cars; approval and plans for Package Treatment Plant Phase I, Phase II, and Phase III; water line extensions to such communities as Houston, Henryfield-Mt. Carmel, and Liberty Grove; the establishment of the Winston County Tourism Center Rest Area; the construction of Seymour-Durbin Park, the Double Springs Amphitheater, Double Springs North Industrial Park, and a new town hall, and plans for a new Day Care Facility; and

WHEREAS, further, seven new industries have located in Double Springs, and 16 site preparation grants have been awarded

to the Industrial Development Board, and a number approved for other improvement purposes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Bartley Corbin Seymour is hereby most highly commended for his long and distinguished record of civic leadership and public service.

BE IT FURTHER RESOLVED, That Mr. Seymour receive a copy of this resolution as evidence of our gratitude and admiration.

Approved February 3, 1998

Time: 2:05 P.M.

Act No. 98-46

H.J.R. 52 – Rep. Parker (T)

HOUSE JOINT RESOLUTION

COMMENDING ASIA HOWARD BEAN AS NORTHPORT, ALABAMA'S 1997 CITIZEN OF THE YEAR.

WHEREAS, it is with highest commendation and esteem that the Legislature of Alabama notes the selection of Asia Howard Bean as Northport, Alabama's Citizen of the Year for 1997, by the West Alabama Chamber of Commerce; and

WHEREAS, over the years, A.H. Bean, a Northport native, has worked diligently and tirelessly toward the good and well-being of his community and its citizens, demonstrating those truest ideals of humanitarianism and Christian love through his many deeds of compassion and concern to the benefit of others; and

WHEREAS, a warm and gentle man of impeccable character and integrity, he has shared generously of his time and resources, contributing significantly in a broad spectrum of worthy works and causes, including the Salvation Army, American Christian Academy, Historical Northport, Boys and Girl Scouts of America, American Heart Association, Leukemia Society, Muscular Dystrophy, United Cerebral Palsy, the University of Alabama and Judson College, and college scholarship endowment funds, to mention a few; and

WHEREAS, also, as a faithful and active member of Flatwoods Baptist Church, he has established a scholarship fund there to help young people get an education; played a vital role in establishing a fund for the needy and a benevolence fund; and has been working diligently in close association with the church to establish a day school for young children to open in January 1998; and

WHEREAS, further, Mr. Bean, who managed the Northport office of Olan Mills for a number of years until his retirement in 1988, played a key role in bringing this major company's Southern District office to Northport in the 1970s; and

WHEREAS, A.H. Bean is indeed deserving of public recognition and sincere gratitude for his generous contributions to the City of Northport, Tuscaloosa County, and the State of Alabama, and for his unrelenting and selfless service to others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation and congratulations are hereby extended to Mr. Asia Howard Bean, Northport's Citizen of the Year, for whom a copy of this resolution shall be provided.

Approved February 3, 1998

Time: 2:06 P.M.

Act No. 98-47

H.J.R. 53 – Rep. Newton (C)

HOUSE JOINT RESOLUTION

COMMENDING JOANNE KILLOUGH ON HER MERITORIOUS CAREER IN PUBLIC SERVICE.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes Joanne Killough, who is retiring following a distinguished career in public service spanning some 22 years, and as an accomplished and dedicated employee in the office of the Clerk of the Circuit Court, Second Judicial District, Butler County, since 1989; and

WHEREAS, a lifelong resident of Butler County, Mrs. Killough began her career in public service in the tax assessor's office in August of 1975, moving to the register's office in 1977, and finally to the office of the circuit clerk, her retirement position, in 1989; and

WHEREAS, over the years, Mrs. Killough, whose many duties include the equity court, has most clearly demonstrated her extraordinary ability and her seemingly unlimited capacity for work, and distinguished herself through her diligence and devotion to those whom she has served; and

WHEREAS, she has served with great dedication, and the highly efficient manner in which she has carried out her many

duties and responsibilities has earned for her the highest admiration and regard of all with whom she has been associated; and

WHEREAS, Mrs. Killough has been a faithful member of Southside Baptist Church since 1934; she is married to Tommy Killough, who for many years has served as a Deacon at Southside Baptist, and is the devoted mother of three children, all of whom are college educated and useful and productive citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of an outstanding professional career in public service, highest commendation is hereby accorded Joanne Killough, for whom copy of this resolution shall be provided with sincere regards and best wishes for the future.

Approved February 3, 1998

Time: 2:07 P.M.

Act No. 98-48

H.J.R. 54 – Rep. Boyd

HOUSE JOINT RESOLUTION

COMMENDING STEMLEY ROAD ELEMENTARY SCHOOL OF TALLADEGA, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pride and pleasure that the Legislature of Alabama notes the selection of Stemley Road Elementary School, Talladega, Alabama, as a National Blue Ribbon School by the United States Department of Education; and

WHEREAS, in May 1997, Stemley Road Elementary School was chosen along with 261 other schools from across the nation as a National Blue Ribbon School, an achievement reflecting high standards of instruction with the collective dedicated hard work and support of parents, teachers, students, and other staff and community members; and

WHEREAS, the school was also one of eleven schools picked for special honors in professional development, further reflecting the commitment of school faculty to improve professionally, as evidenced by the high percentage of teachers holding graduate degrees, and the institution of a schoolwide staff development program; and

WHEREAS, in recognition of their achievement, the school was honored at a National Awards ceremony in Washington, D. C., on November 5-7, as well as by the Talladega County Board of Education,

the Alabama State Board of Education, and the National Reading Styles Institute, and will be honored again at a Blue Ribbon Celebration at the school on December 2, 1997; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in its selection as a National Blue Ribbon School, Stemley Road Elementary School has indeed brought great honor to its community and state, and we hereby express our pride and congratulations in their accomplishment.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to principal Vicki Oliver for appropriate presentation and school display, and as an expression of our tribute and esteem.

Approved February 3, 1998

Time: 2:08 P.M.

Act No. 98-49

H.J.R. 55 – Reps. Morrison, Guin, Burke,
Black (M), Hall (A), Robinson,
Dukes, Hawk, Ford, Galliher,
Carter, Starkey, McDaniel,
Letson and Page

HOUSE JOINT RESOLUTION

ENCOURAGING THE ALABAMA DELEGATION TO THE UNITED STATES CONGRESS TO INTRODUCE LEGISLATION REQUIRING THE TENNESSEE VALLEY AUTHORITY TO PURCHASE ALABAMA COAL.

WHEREAS, this legislative body notes the ability of Alabama coal producers to supply promptly, economically, and efficiently Alabama coal to the Tennessee Valley Authority; and

WHEREAS, the relationship of Alabama and TVA is mutually beneficial and should be advanced in a manner which promotes the economy of our state while preserving the fiscal soundness of this important federal program; and

WHEREAS, we believe it is appropriate for the Alabama Delegation to the United States Congress to pursue this objective by introducing and supporting federal legislation which will require TVA to purchase a specified amount of its coal from Alabama coal producers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the members of

the Alabama Delegation to the United States Congress, each of whom shall be provided a copy of this resolution, are respectfully encouraged to introduce and support appropriate federal legislation requiring the Tennessee Valley Authority to purchase a minimum of 10 percent of its coal from Alabama coal producers.

Approved February 3, 1998

Time: 2:09 P.M.

Act No. 98-50

H.J.R. 61 – Rep. Fuller

HOUSE JOINT RESOLUTION

DECLARING AN EMERGENCY IN REGARD TO FUNDING FROM THE EDUCATION TRUST FUND FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1999.

WHEREAS, the Legislature hereby determines pursuant to Act 88-981 that an emergency exists in regard to funding from the Education Trust Fund.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the sum of \$16,000,000 shall be withdrawn from the Proration Prevention Account and shall be transferred to the Education Trust Fund on or after October 1, 1998 to be available for appropriation by the Legislature for the fiscal year ending September 30, 1999.

BE IT FURTHER RESOLVED, That this resolution shall become effective immediately upon its passage by the Legislature and approval by the Governor or upon its otherwise becoming a law.

Approved February 3, 1998

Time: 2:10 P.M.

Act No. 98-51

H.J.R. 40 – Rep. Minnifield

HOUSE JOINT RESOLUTION

COMMENDING TYRENDIA WILLIAMS OF BIRMINGHAM, ALABAMA, UPON HER SELECTION AS AMERICA'S JUNIOR MISS, 1997, AND INVITING HER TO ADDRESS THE ALABAMA LEGISLATURE.

WHEREAS, it is with great pleasure that the Legislature of Alabama notes the selection of Miss Tyrendia Williams of Birmingham,

Alabama, as America's Junior Miss, 1997, and invites her to address a joint session of the Alabama Legislature at a time to be determined; and

WHEREAS, the daughter of Tyrone and Jerona Williams, and a student at Vestavia Hills High School, Miss Williams is a young lady of exceptional talent and ability, and one who is indeed deserving of this prestigious honor; and

WHEREAS, among numerous activities, she is a student teacher at dance school, a member of the debate team, Youth Sunday School, West Service Girls, and a student researcher at the University of Alabama, Birmingham; also, among numerous honors and awards over her exemplary high school career, she has served as National Honor Society secretary, National Latin Honor Society secretary, Student Government Association Representative, Girls State Community Representative, Leo Club president, secretary and sophomore board member, debate team secretary, Homecoming Queen, and Class Favorite, to name but a few; and

WHEREAS, she has equally served her community in such capacities as Metrochangers Home Building and Repair volunteer, Salvation Army Christmas Toy Drive helper, Lions Club Fruit Sale volunteer, Multiple Sclerosis Walk/Run participant, speaker for Girl Scouts of America's 85th Anniversary, fund raiser for the Daycare Center, and performer for SGA fund raiser, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon her selection as America's Junior Miss, 1997, and in recognition of outstanding achievement, we hereby most highly commend Miss Tyrenda Williams of Birmingham, Alabama, a young Alabamian of whom we are justly proud, and for whom a copy of this resolution shall be provided.

Approved February 3, 1998

Time: 2:11 P.M.

Act No. 98-52

H.J.R. 39 – Rep. Carter

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF BILLY BURGREEN.

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of Billy Burgreen, a long-time Athens building contractor and president of Burgreen Contracting Company, at the age of 61 years; and

WHEREAS, an exemplary public servant, Mr. Burgreen served the Athens and Limestone Communities with tireless and unswerving devotion as a member of the Alabama Concrete Industries Association Board of Directors, Compass Bank Board of Directors, Limestone County Solid Waste Authority Board, and as secretary and treasurer of the Alabama Asphalt Association; and

WHEREAS, he was a man of vision who also served with extraordinary leadership ability with both the Athens-Limestone Development Association and County Home Builders Association, and received the prestigious honor of being named Business Person of the Year by the Athens-Limestone Chamber of Commerce; and

WHEREAS, Mr. Burgreen, who always kept himself available and accessible to the people he served, championed scores of causes and was instrumental in playing a key role in new ditches being dug at U. S. Highway 72 and I-65; and

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize with gratitude and praise the life and selfless service of the late Billy Burgreen, and do further direct that a copy of this resolution be provided to his family that they may know of our shared sorrow in their great and inconsolable loss.

Approved February 3, 1998

Time: 2:12 P.M.

Act No. 98-53

H.J.R. 38 – Rep. Smith

HOUSE JOINT RESOLUTION

COMMENDING LEE HELMS FOR HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Lee Helms has brought great credit and distinction to himself through his career achievements with the Alabama Emergency Management Agency, and it is appropriate to highlight his many accomplishments and to extend special honor and highest commendation; and

WHEREAS, through his continuous perseverance in service to the people of his community and outstanding support to local Emergency Management Agencies (EMAs), Mr. Helms was awarded the prestigious Clayton R. Christopher Memorial Award, the highest award presented at the annual conference of the National

Coordinating Counsel on Emergency Management in Tempe, Arizona; and

WHEREAS, it is widely acknowledged that the unparalleled success of his tenure is attributable to his experience and expertise as an outstanding administrator and he has always worked diligently to promote a standard of excellence coordinating state and local EMAs; and

WHEREAS, Lee Helms has the humility of a truly great man, and his willingness to work, as evidenced by the volume of his work production, has earned for him the respect and admiration of his peers; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we take great pride in commending Lee Helms, who is held in highest personal regard, as recipient of The Clayton R. Christopher Memorial Award and, by copy of this resolution, extend to him sincere best wishes for continued success.

Approved February 3, 1998

Time: 2:13 P.M.

Act No. 98-54

H.J.R. 37 – Rep. Smith

HOUSE JOINT RESOLUTION

COMMENDING REVEREND HYMON ATCHESON ON HIS OUTSTANDING MINISTRY.

WHEREAS, Hymon Atcheson, a well-known minister who has preached 3,000 sermons on his "Back to God and the Church" program on WKLF in Clanton, Alabama, is indeed deserving of highest praise for his outstanding Christian leadership in radio ministry since 1947; and

WHEREAS, a lifelong resident of Chilton County, Reverend Atcheson, at the age of 86 years, maintains consistent high quality and excellence in his broadcasting and has pastored 17 Baptist churches and conducted funerals in 92 churches; and

WHEREAS, his dedication and service go beyond the call of duty to step out and fulfill the mission of God's church through his radio ministry and his listeners have benefitted greatly from his warmth and friendship, and his myriad of Christian service programs; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Reverend Hymon Atcheson is indeed commended on his distinguished record of spiritual service and, by copy of this resolution, highest praise is awarded to him as he leads his flock in spiritual growth.

Approved February 3, 1998

Time: 2:14 P.M.

Act No. 98-55

H.J.R. 36 -- Rep. Carns

HOUSE JOINT RESOLUTION

COMMENDING KARE KRISTIANSSEN AND THE ROOT & BRANCH ASSOCIATION FOR THEIR OUTSTANDING ACHIEVEMENTS WITH "EMBASSY 3000."

WHEREAS, it is with highest commendation that Kare Kristiansen, Past President of the Norwegian Parliament, Former Norwegian Minister of Oil and Energy and Former Nobel Peace Prize Committee Member, and the Root & Branch Association, Ltd. of Jerusalem, are recognized by the State of Alabama for their international campaign "Embassy 3000"; and

WHEREAS, "Embassy 3000" encourages the nations of the world to recognize united Jerusalem as the eternal capital of the State of Israel, which is the Homeland of the Jewish People, and to move their embassies in Israel to Jerusalem; and

WHEREAS, the founding of Jewish Jerusalem by King David celebrated its 3000th Anniversary during 1996; and

WHEREAS, despite a 1,900 year exile including crusades, countless expulsions, inquisitions, pogroms and the Holocaust, Jerusalem has throughout Jewish history remained a concrete symbol of the eternal Jewish hope to return to the Land of Israel, the Jewish Homeland; and

WHEREAS, millions of followers of many different religions throughout the world believe Jerusalem to be the spiritual center of Humanity; and

WHEREAS, even though the Jewish People have unique and exclusive claims to Jerusalem, biblical capital of King David, the Israeli Government after reunifying the Holy City in 1967 granted freedom to all the peoples of the world to come up to Jerusalem and worship, each according to his conscience, in Jerusalem; and

WHEREAS, affirming and reaffirming its opinion that the united City of Jerusalem is the legitimate capital of Israel, the United States Congress, on October 24, 1995, voted in favor of the Jerusalem Embassy Relocation Act of 1995, which states that Jerusalem should be recognized as the capital of the State of Israel; and

WHEREAS, the State of Alabama fervently believes that it is time for the United States to implement the Jerusalem Embassy Relocation Act and for the nations to follow the lead of the United States and to relocate their embassies in Israel to Jerusalem; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Honorable Kare Kristiansen and the Root & Branch Association, Ltd., of Jerusalem are indeed commended for the exemplary leadership they have displayed through their international campaign "Embassy 3000," which encourages the nations of the world to recognize united Jerusalem as the eternal capital of the State of Israel, which is the Homeland of the Jewish People, and to move their embassies in Israel to Jerusalem.

BE IT FURTHER RESOLVED, That a copy of this resolution is presented to the Honorable Kare Kristiansen and the Root & Branch Association with highest honor and esteem and best wishes for continued success.

Approved February 3, 1998

Time: 2:02 P.M.

Act No. 98-56

H.J.R. 8 – Rep. Hammett

HOUSE JOINT RESOLUTION

SUSTAINING THE DISAPPROVAL BY THE JOINT COMMITTEE ON ADMINISTRATIVE REGULATION REVIEW OF THE DEPARTMENT OF HUMAN RESOURCE'S PROPOSED AMENDED RULES, NEW RULES, AND REPEALED RULES RELATING TO DAY CARE/NIGHTTIME CENTERS, FAMILY DAY CARE/NIGHTTIME HOMES, AND GROUP HOMES.

WHEREAS, the Department of Human Resources filed a "Notice of Intended Action" of proposed amended rules 660-5-25-.05, Other Day Care Arrangements-Related Home Care (Re-numbered Formerly 660-5-25-.08); 660-5-25-.06, Other Day Care Arrangements-In-Home

Care (Re-numbered Formerly 660-5-25-.09); new rules Chapter 660-5-26, Day Care Licensure-Minimum Standards for Day Care Centers And Nighttime Centers; 660-526-.14, Staff To Child Ratios; Chapter 660-5-27, Day Care Licensure-Minimum Standards For Family Day Care Homes, Family Nighttime Homes, Group Day Care Homes And Group Nighttime Homes; and repealed rules 660-5-25-.05, Day Care Licensure-Minimum Standards For Day Care Centers And Nighttime Centers; Appendix A, Attachment-Meal(s) And Snack(s) Patterns; Appendix B, Attachment-Required Equipment List; 660-5-25-.06, Day Care Licensure-Minimum Standards For Group Day Care Homes and Group Nighttime Homes; 660-5-25-.07, Day Care Licensure-Minimum Standards For Family Day Care Homes And Nighttime Homes; which notice was published in the Alabama Administrative Monthly, dated July 31, 1997; and

WHEREAS, the Department of Human Resources certified to the Legislative Reference Service the adoption of the proposed rule changes, on October 28, 1997, which was the subject of review at a meeting of the Joint Committee on Administrative Regulation Review on November 13, 1997; an

WHEREAS, after hearing from interested persons, the Joint Committee, in accordance with Section 41-22-23, Code of Alabama 1975, disapproved the proposed rule changes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the decision of the Joint Committee to disapprove proposed amended rules 660-5-25-.05, Other Day Care Arrangements-Related Home Care (Re-numbered Formerly 660-5-25-.08); 660-5-25-.06, Other Day Care Arrangements-In-Home Care (Re-numbered Formerly 660-5-25-.09); new rules Chapter 660-5-26, Day Care Licensure-Minimum Standards For Day Care Centers And Nighttime Centers; 660-5-26-.14, Staff To Child Ratios; Chapter 660-5-27, Day Care Licensure-Minimum Standards For Family Day Care Homes, Family Nighttime Homes, Group Day Care Homes And Group Nighttime Homes; and repealed rules 660-5-25-.05, Day Care Licensure-Minimum Standards For Day Care Centers And Nighttime Centers; Appendix A, Attachment-Meal(s) And Snack(s) Patterns; Appendix B, Attachment-Required Equipment List; 660-5-25-.06, Day Care Licensure-Minimum Standards For Group Day Care Homes And Group Nighttime Homes; 660-5-25-.07, Day Care Licensure-Minimum Standards For Family Day Care Homes And Nighttime Homes, is sustained.

This Act became a law under Section 125 of the Constitution on February 4, 1998 without approval by the Governor.

Act No. 98-57

H.J.R. 10 – Rep. Hammett

HOUSE JOINT RESOLUTION

SUSTAINING THE DISAPPROVAL BY THE JOINT COMMITTEE ON ADMINISTRATIVE REGULATION REVIEW OF A PROPOSED NEW RULE BY THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, RULE NO. 220-6-.31, ENTITLED “BOATER SAFETY CERTIFICATIONS-VISION TESTS AND VISION INFORMATION REQUIREMENTS.”

WHEREAS, the Department of Conservation and Natural Resources filed a “Notice of Intended Action” of a proposed new rule, Rule No. 220-6 .31, entitled “Boater Safety Certifications-Vision Tests and Vision Information Requirements,” which notice was published in the Alabama Administrative Monthly, dated November 29, 1996; and

WHEREAS, the Department of Conservation and Natural Resources certified to the Legislative Reference Service the adoption of a new rule, Rule No. 220-6-.31, on January 14, 1997, which was the subject of a review at a meeting of the Joint Committee on Administrative Regulation Review on February 18, 1997; and

WHEREAS, after hearing from interested persons, the Joint Committee, in accordance with Section 41-22-23, Code of Alabama 1975, disapproved the proposed new rule, Rule No. 220-6-.31, entitled “Boater Safety Certifications-Vision Tests and Vision Information Requirements”; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the decision of the Joint Committee to disapprove the proposed new rule, Rule No. 220-6-.31, entitled “Boater Safety Certifications-Vision Tests and Vision Information Requirements,” is sustained.

This Act became a law under Section 125 of the Constitution on February 4, 1998 without approval by the Governor.

Act No. 98-58

H. 176 – Reps. Thomas (D) and Galliher

AN ACT

Relating to St. Clair County; to authorize the County Board of Education to insure school property through the state insurance fund or an insurance company.

Be It Enacted by the Legislature of Alabama:

Section 1. In accordance with Section 41-15-1 of the Code of Alabama 1975, the St. Clair County Board of Education may insure

school buildings and property through the state insurance fund or an insurance company, whichever in the opinion of the board provides the best coverage for the school buildings and property.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved February 5, 1998

Time: 8:30 A.M.

Act No. 98-59

H. 178 – Rep. Thomas (D)

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Springville in St. Clair County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Springville in St. Clair County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

From the Northeast corner, SE 1/4 of NW 1/4 of Section 27, Township 14 South, Range 2 East, the point of beginning of property here described, run thence South 87 degrees 59 minutes West 2,048.24 feet to a point in a county road; thence South 30 degrees 48 minutes West 179.00 feet in said road; thence South 38 degrees 57 minutes West 257.60 feet in said road; thence South 18 degrees 26 minutes West 110.00 feet in said road; thence South 9 degrees 10 minutes East 114.00 feet in said road; thence North 87 degrees 59 minutes East and parallel to north 11/44 line 2230.0 feet more or less to property line; thence North 43 degrees 29 minutes East 40.0 feet more or less to east boundary of SE 1/4 of NW 1/4 of Section 27, Township 14 South, Range 2 East; thence North 2 degrees 54 minutes West along 11/44 line 549.07 feet to point of beginning; being a part of the South half of NW 1/4 of Section 27, Township 14 South, Range 2 East, St. Clair County, Alabama.

Lot 9 according to the survey of Heritage Hills Estate 2nd Sector as recorded in Plat Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville, Division.

Lot 16, according to the Survey of Heritage Hills Estates 2nd Sector as recorded in Plat Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville Division.

Lot 1, according to the Survey of Heritage Hills Estates, 2nd Sector, as recorded in Map Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville Division.

From the Southwest corner of the Northwest 1/4 of the Southwest 1/4 of Section 27, Township 14 South, Range 2 East run North 1334.68 feet to an iron stake at the Southwest corner of the Southwest 1/4 of the Northwest 1/4 of said section; thence continue North 534.90 feet, thence deflect right 82 deg 45 min 52 sec and run Northeasterly 324.85 feet to a point on the Easterly boundary of Washington Valley Road, thence deflect left 76 deg 38 min 30 sec and run Northerly along said boundary 58.21 feet, thence with an interior angle left of 126 deg 21 min 14 sec run Northeasterly 306.67 feet, thence with an interior angle left of 202 deg 06 min 15 sec run Northeasterly 156.71 feet to an iron stake at the most Southerly corner of the 1.0 acre lot now owned by Robert C. Adams, and the Point of Beginning of the property herein described, thence with an interior angle right of 30 deg 28 min 02 sec run Southwesterly to 37.69 feet, thence with an interior angle left of 161 deg 15 min 50 sec run Southwesterly 143.90 feet to a point on the Easterly Boundary of Washington Valley road; thence with an interior angle left of 85 deg 59 min 54 sec to the tangent of a curve to the right with a delta angle of 40 deg 33 min 19 sec and a radius of 336.75 feet, run Northeasterly along the arc of said curve 238.36 feet; thence continue Northeasterly along the Easterly boundary of Washington Valley Road for 16.20 feet; thence with an interior angle left of 105 deg 06 min 24 sec run Southeasterly 300.65 feet to the Point of Beginning, being a part of the Southwest 1/4 of the Northwest 1/4 of Section 27, Township 14 South Range to East, St. Clair County, Alabama, and containing 1.07 acres more or less.

Lot Number 26, according to the Survey of Heritage Hills Estates, First Sector, as shown by map recorded in Map Book 5, page 7, in the Ashville Division of St. Clair County Probate Office.

Lot Number 32 of Heritage Hills Estates, First Sector, as shown in Plat Book 5, Page 27, Probate Office, St. Clair County, Ashville, Alabama.

Lot 11, according to the Survey of Heritage Hills Estates, 1st Sector, as recorded in Plat Book 5, Page 45, in the Probate Office of St. Clair County, Alabama, Ashville Division.

Lot 12, according to the Survey of Heritage Hills Estates, First Sector, as recorded in Plat Book 5, page 27, in the Probate Office of St. Clair County, Alabama, Ashville Division; being situated in St. Clair County, Alabama.

Lot Number 24 of Heritage Hills Estates, First Sector, as shown in Plat Book 5, Page 27, Probate Office, St. Clair County, Ashville, Alabama.

Lot 6, according to the survey of Heritage Hills Estates 1st Sector as recorded in Plat Book 5, Page 27, in the Probate Office of St. Clair County, Alabama, Ashville Division.

Lot 34, of Heritage Hills Estates, First Sector, as shown by map recorded in Map Book 5, page 27, in the Office of the Judge of Probate of St. Clair County, Alabama, Ashville Division.

Lot 3 according to the survey of Heritage Hills Estates 2nd Sector as recorded in Plat Book 5, page 45, in the Probate Office of St. Clair County, Alabama Ashville Division

A part of the NW 1/4, NW 1/4, Section 26, Township 14 South, Range 2 East, more particularly described as follows: Commence at the Northwest corner of the NW 1/4 of the NW 1/4 of said Section 26; thence run North 88 degrees 19 minutes 57 seconds East along North line of said 1/4, 1/4 624.45 feet to the Whitamore Line and Point of Beginning; thence South 61 degrees 26 minutes 30 seconds West, 262.60 feet; thence South 34 degrees 44 minutes 20 seconds East, 292.21 feet; thence North 66 degrees 22 minutes East, 78.52 feet; thence North 52 degrees 26 minutes 10 seconds East 52.26 feet; thence South 33 degrees 32 minutes 50 seconds East 254.78 feet to the Northwesterly Right Of-Way Line of U. S. Highway 11, thence North 44 degrees 20 minutes 20 seconds East; 110.0 feet along said Right-Of-Way to the Whitamore Line; thence North 31 degrees 29 minutes West, 511.17 feet to Point of Beginning; said parcel of land being located in St. Clair County, Alabama, Ashville Division.

The North half of South half of Northwest 1/4 (N 1/2 of S 1/2 of NW 1/4) of Section 8, Township 15 South, Range 2 East, St. Clair County, Alabama.

LESS AND EXCEPT the following:

The North fifty (50) feet of the South half of the Northwest 1/4 of Section 8, Township 15 South, Range 2 East, the land conveyed being a strip of land of a width of fifty (50) feet, such strip being bounded on the North by the North line of the South half of the Northwest 1/4 of Section 8, Township 15 South, Range 2 East.

ALSO LESS AND EXCEPT the following:

Beginning at the Northwest corner of the NW 1/4 of SW 1/4 of NW 1/4 of Section 8, Township 15 South, Range 2 East run North 89 deg. 47 min. East along the 11/44 line 530.24 feet to the centerline of

the existing private road; thence along said road the following courses: South 9 deg. 04 min. West 272.09 feet; South 42 deg. 14 min. West 254.14 feet; South 17 deg. 36 min. 23 sec. West 158 feet South 67 deg. 19 min. West 86.7 feet; South 89 deg. 30 min. West 189.3 feet to a point on the West line of the said NW 1/4 of SW 1/4 of NW 1/4; thence North 1 deg. 17 min. 40 sec. West along said line 640.65 feet to the point of beginning. Being a part of the NW 1/4 of SW 1/4 of NW 1/4 of Section 8, Township 15 South, Range 2 East, St. Clair County, Alabama.

LESS AND EXCEPT an easement 15 feet in width along the West line of the SW 1/4 of NW 1/4 of Section 8, Township 15 South, Range 2 East running from the Southwest corner of within described property Southerly to the existing road.

Lot 5, according to the survey of Heritage Hills Estates, 1st Sector, as recorded in Plat Book 5, Page 27, in the Probate Office of St. Clair County, Alabama.

Lot 9, according to the survey of Heritage Hills Estates, 1st Sector, as recorded in Plat Book 5, Page 27, in the Probate Office of St. Clair County, Alabama; Ashville Division.

Lot 13, according to the Survey of Heritage Hills Estates, 2nd Sector as recorded in Plat Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville Division.

Lot 27, according to the Survey of Heritage Hills Estates, 1st Sector, as recorded in Plat Book 5, page 27, in the Probate Office of St. Clair County, Alabama, Ashville Division.

From the Northwest corner of the NW 1/4 of the SE 1/4 of Section 23, Township 14 South, Range 1 East run S 1 02' 21" W along the westerly line of said NW 1/4, SE 1/4, 172.62 feet to the southwesterly boundary of Canoe Road; thence 190.45 feet northeasterly along said road boundary and the arc of a curve concave southeasterly and having a central angle of 24 10' 06", a radius of 451.5 feet and a chord of N 64 12' 48" E, 189.04 feet; thence continue 114.44 feet along the arc of a curve concave southeasterly and having a central angle of 2 39' 17", a radius of 2470.00 feet and a chord of N 77 37' 37" E, 114.43 feet to an iron; thence continue along said road boundary 50.28 feet northeasterly along the arc of a curve concave southeasterly and having a central angle of 1 09' 59", a radius of 2470.00 feet and a chord of N 79 32' 19" E, 50.28 feet; thence N 80 07' 18" E along the tangent 210.99 feet; thence 178.37 feet along the arc of a curve concave southeasterly and having a central angle of 13 08' 00", a radius of 778.17 feet and a chord of N 86 41' 17" E, 177.98 feet to an iron, the point of beginning of property herein described; thence continue along said

road boundary 107.24 feet easterly along the arc of a curve concave southerly and having a central angle of 7 53' 46", a radius of 778.17 feet and a chord of S 82 47' 46" E, 107.16 feet; thence S 78 50' 56" E along the tangent 209.50 feet; thence easterly 302.91 feet along the arc of a curve concave northerly and having a central angle of 17 43' 11", a radius of 979.46 feet and a chord of S 87 42' 31" E, 301.71 feet; thence N 83 25' 53" E along the tangent, 5.50 feet to an iron on the easterly line of the NW 1/4 of the SE 1/4; thence S 1 10' 40" W, 1271.22 feet to an iron, the southeast corner of the NW 1/4 of the SE 1/4; thence N 88 54' 46" W along the south line 620.00 feet to an iron; thence N 1 10' 40" E, 1324.86 feet to the point of beginning; being a part of the NW 1/4 of the SE 1/4 of Section 23, Township 14 South, Range 1 East, St. Clair County, Alabama and containing 18.3 acres more or less.

A part of the NE 1/4 of the SE 1/4 and NW 1/4 of the SE 1/4 of Section 13, Township 14 South, Range 1 East, more particularly described as follows: Begin at the SE corner of said NE 1/4 of the SE 1/4; thence N 0 degree 18 minutes 15 seconds E, 1324.85 feet; thence N 89 degrees 57 minutes W, 760.22 feet to the center of a county highway; thence in a Southwest direction along said center of highway 1710 feet, more or less, to the South 1/4 line of said NW 1/4 of the SE 1/4; thence East along said 1/4 to the SE corner of NE 1/4 of the SE 1/4, 1800 feet, more or less, to the point of beginning, containing 36 acres, more or less, less and except mineral and mining rights reserved by deed from Alabama State Land Company to E. W. Glenn dated 4/30/1919 recorded in Deed Book 40, Page 35, in the Office of the Judge of Probate of Blount County, Alabama.

Lot 12, according to the survey of Heritage Hills Estates 2nd Sector as recorded in Plat Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville, Division.

Lot 31, according to the survey of Heritage Hills Estates 1st Sector as recorded in Plat Book 5, Page 27 in the Probate Office of St. Clair County, Alabama, Ashville Division.

Lot number 10, according to the survey of Heritage Hills Estates, 2nd Sector, as recorded in Map Book 5, Page 45, in the Office of Probate St. Clair County, Ashville Division.

A parcel of land lying in the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 15 South, Range 2 East, St. Clair County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of said Southwest 1/4 of Southwest 1/4 of Section 7, Township 15 South, Range 2 East; thence run southwardly along the west line of said 1/4 - 1/4 section for a distance of 717.33 feet; thence turn an angle to the left of 90

degrees 00 minutes 00 seconds for a distance of 113.96 feet to a point on the easterly right of way of Simmons Mountain Road and the point of beginning; thence turn an angle to the right of 19 degrees 30 minutes 31 seconds for a distance of 662.52 feet; thence turn an angle to the right of 92 degrees 24 minutes 21 seconds for a distance of 248.0 feet; thence turn an angle to the right of 80 degrees 26 minutes 39 seconds for a distance of 620.26 feet to a point on the easterly right of way of said road, and the point of beginning of a curve to the right having a central angle of 26 degrees 08 minutes 27 seconds and a radius of 723.08 feet; thence run along the arc of said curve for a distance of 329.90 feet to the point of beginning.

Being situated in St. Clair County, Alabama.

Lot 6, according to the Survey of Heritage Hills Estates, 2nd Sector, as recorded in Map Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville Division. Mineral and mining rights excepted.

Lot number 33 of Heritage Hills Estates, First Sector, as shown in Plat Book 5, Page 27, Probate Office, St. Clair County, Ashville, Alabama.

Lot number 5, according to the survey of Heritage Hills Estates 2nd Sector as recorded in Plat Book 5, page 45, in the Probate Office of St. Clair County, Alabama, Ashville Division.

Lot 14, according to the Survey of Heritage Estates, 2nd Sector, as recorded in Map Book 5, page 45, in the Probate Office of St. Clair County, Alabama; Ashville Division.

Lot number 4 Heritage Hills Estates, Second Sector, as recorded in Map Book 5, Page 45, in the Office of Probate St Clair County, Alabama, Ashville Division.

Lot Number 25 of Heritage Hills Estates, First Sector, as shown in Plat Book 5, page 27, Probate Office, St. Clair County, Ashville, Alabama.

Lot 4, according to the survey of Heritage Hills Estates, First Sector, as shown by Plat Book 5, page 27 in the Probate Office of St. Clair County, Alabama, Ashville Division; being situated in St. Clair County, Alabama.

Lot 10, according to the Survey of Heritage Hills Estates 1st Sector as recorded in Plat Book 5, page 27 in the Probate Office of St. Clair County, Alabama, Ashville Division.

From the NW corner of the NW 1/4 of the SE 1/4 of Section 30, Township 14 South, Range 2 East, run thence South 89 degrees 14 minutes 25 seconds East along 1/4-1/4 Line 575.04 feet to a point

on the Easterly boundary cross street, and the point of beginning of the property herein described; thence continue South 89 degrees 14 minutes 25 seconds East 171.00 feet to a point located North 89 degrees 14 minutes 25 seconds West 600.00 feet from the NE corner of said 1/4-1/4 section; thence South 0 degrees 45 minutes 35 seconds West 165.00 feet to a point on the northerly boundary of cross way; thence South 75 degrees 58 minutes 15 seconds West along said boundary 175.47 feet to the intersection of the Easterly Boundary of cross street; thence North 0 degrees 23 minutes 30 seconds East 209.79 feet to the point of beginning; begin a part of the NW 1/4 of the SE 1/4 of Section 30, Township 14 South, Range 2 East, St. Clair County, Alabama.

From the NW Corner of the NW 1/4 of the SE 1/4 of Section 30, Township 14 South, Range 2 East, run thence South 89 degrees 14 minutes 25 seconds East along 1/4-1/4 Lone 746.04 feet to the point of beginning of the property herein described; thence continue South 89 degrees 14 minutes 25 seconds East 86.96 feet to a point located North 89 degrees 14 minutes 25 seconds West 513.04 feet from the NE corner of said 1/4-1/4 section; thence South 0 degrees 42 minutes 05 seconds West 90.73 feet; thence South 46 degrees 21 minutes 50 seconds West 84.70 feet; thence North 89 degrees 14 minutes 25 seconds West 26.53 feet; thence North 0 degrees 45 minutes 35 seconds East 150.00 feet to the point of beginning; being a part of the NW 1/4 of the SE 1/4 of Section 30, Township 14 South, Range 2 East, St. Clair County, Alabama.

The North half of the Northwest Quarter fifteen (15) acres on the west side. Also, ten (10) acres in the Northeast Corner of the Southeast Quarter of the Northwest Quarter, Section Fourteen (14) Township Fifteen (15) Range 2, containing in all 75 acres more or less.

Lot 2, according to the Survey of Heritage Hills Estates 2nd Sector, as recorded in Map Book 5, Page 45 in the Probate Office of St. Clair County, Alabama, Ashville Division.

From the Northeast corner of the NW 1/4 of the NW 1/4 run thence S00°22'W 936.3 feet to a point on the northerly boundary of a public road; thence N68°02'W along said boundary 378.65 feet; thence N00°31'E 799.4 feet to a point on the North line of said 1/4-1/4 section; thence right 90 degrees 15' and run S89°14'E 350.00 feet to the point of beginning; being a part of the NW 1/4 of the NW 1/4 of Section 10, Township 15 South, Range 2 East, St. Clair County, Alabama, and containing 7.0 acres more or less.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Springville is on file in the office of

the Judge of Probate in St. Clair County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved February 5, 1998

Time: 8:31 A.M.

Act No. 98-60

H.J.R. 23 – Reps. Flowers, Smith, Knight (A),
Payne, Allen, Baker, Black (L),
Boyd, Carns, Carothers, Clouse,
Collins, Dolbare, Galliher,
Gaston, Graham, Guin, Hall (A),
Hall (L), Hamilton, Hawkins,
Hayden, Hogan, Hooper,
Houston, Jackson, Johnson (R),
Jorgensen, Knight (J), Laird,
Layson, Lindsey, McAdory,
McClammy, McDaniel, McKee,
Melton, Millican, Minnifield,
Mitchell, Moore, Morrison,
Morrow, Morton, Newton (D),
Page, Papucci, Robinson,
Rogers (J), Sanderford,
Seibenhener, Sims, Starkey,
Thomas (J), Townsend, Turner,
Vance, Willis and Wren

HOUSE JOINT RESOLUTION

URGING THE ALABAMA DELEGATION OF THE U. S. CONGRESS TO SUPPORT LEGISLATION TO REPEAL THE PROVISION OF THE BALANCED BUDGET ACT OF 1997 THAT ELIMINATES MEDICARE HOME CARE COVERAGE OF VENIPUNCTURE SERVICES WHEN PROVIDED AS A SOLE QUALIFYING SKILLED SERVICE.

WHEREAS, the Balanced Budget Act of 1997 contains a provision that eliminates Medicare home care coverage of venipuncture services when provided as a sole qualifying skilled service, effective February 5, 1998; and

WHEREAS, currently the venipuncture services which qualify a patient for Medicare benefits also qualify the patient to receive

unskilled services such as aide services including bathing and food preparation which play a vital role in health promotion and disease prevention; and

WHEREAS, in many cases, the professional caregiver who administers the blood drawing often serves as the primary health evaluator, monitoring other aspects of the patient's health beyond the immediate care needs; and

WHEREAS, this provision, if it becomes effective on February 5, 1998, will deny medically necessary home care to 10,000 to 12,000 of Alabama's frail, elderly, homebound patients who suffer from chronic illnesses, further declining the already poor health status of Alabama's elderly citizens' and

WHEREAS, the rolls of Alabama's unemployed and uninsured will swell as thousands of home care employees are laid off, especially home health aides who are predominately poor, younger women with children; and

WHEREAS, at the same time, Medicare and Medicaid costs of unnecessary, more expensive inpatient and institutional care will rise since less costly, appropriate home care will no longer be available; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby strongly urge the members of the Alabama Delegation of the U. S. Congress to support federal legislation to reinstate Medicare home care coverage of venipuncture services when provided as a sole qualifying skilled service. A copy of this resolution shall be forwarded to each member of the delegation, so that our concerns are known.

Approved February 5, 1998

Time: 8:32 A.M.

Act No. 98-61

H.J.R. 94 – Rep. Seibenhener

HOUSE JOINT RESOLUTION

CONGRATULATING HAROLD AND RUTH WISE ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and the 50th Wedding Anniversary of Mr. and Mrs. Harold Wise is a cause for great rejoicing; and

WHEREAS, Mr. Wise, who ably represented the citizens of Geneva County in the Alabama House of Representatives, joined his wife in Holy matrimony on February 5, 1948, and to all those who have witnessed their commitment to the ideals of marriage, the lasting partnership of Mr. and Mrs. Wise is an enviable example of trust and devotion; and

WHEREAS, not only are Mr. and Mrs. Wise to be congratulated on this milestone in their long and happy marriage, but also upon the character and accomplishments of their lives together; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate Mr. and Mrs. Harold Wise on their 50th Wedding Anniversary, and do further direct that they receive a copy of this resolution, executed in highest personal regard and with sincere best wishes for many more happy years together.

Approved February 5, 1998

Time: 2:45 P.M.

Act No. 98-62

H. 175—Reps. Thomas (D) and
Galliher

AN ACT

Relating to St. Clair County; authorizing the sheriff to operate a jail store and telephone system for prisoners in county custody; providing for the deposit, distribution, and auditing of monies earned; and confirming and ratifying certain prior actions.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of St. Clair County or the authorized agents of the sheriff may operate a jail store and a telephone system for prisoners within the confines of the county jail. The jail store and telephone system shall be operated to serve the needs of the jail population.

Section 2. (a) The sheriff shall establish and maintain a Law Enforcement Fund in a bank located in St. Clair County. All proceeds collected under this act shall be deposited by the sheriff into the Law Enforcement Fund.

(b) The sheriff shall keep an account of all jail store sales, telephone usage fees, and transactions of the Law Enforcement Fund for audit by the Department of Examiners of Public Accounts. The jail store account, telephone system account, and Law Enforcement Fund shall be audited at the same time other accounts of the

sheriff are audited. The Department of Examiners of Public Accounts shall submit a copy of the audit to the sheriff within 30 days of its completion.

Section 3. All profits realized in the operation of the jail store and telephone system shall be expended at the discretion of the sheriff for law enforcement purposes in St. Clair County, including office expenses, that are in the interest of the public.

Section 4. The establishment of the Law Enforcement Fund and the use of the proceeds shall not diminish or take the place of any other source of income established for the sheriff or the operation of the office.

Section 5. Any actions relating to the operation of a jail store and telephone system in the county jail prior to the effective date of this act are ratified and confirmed. Any existing proceeds derived from the operation of a jail store and telephone system in the county jail prior to the effective date of this act shall be deposited into the Law Enforcement Fund created by this act.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on February 6, 1998 without approval by the Governor.

Act No. 98-63

S.J.R. 20 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING EMMA CLARK JOLLIFFE OF FORBES, NEW SOUTH WALES, AUSTRALIA, AND WELCOMING HER TO MONTGOMERY, AND TO ALABAMA.

WHEREAS, a very warm and sincere welcome is herein extended to Miss Emma Clare Jolliffe of Forbes, New South Wales, Australia, who is visiting Montgomery and Alabama as part of the Rotary International Youth Exchange Program under the co-sponsorship of the Forbes Rotary Club of New South Wales, Australia, and the Montgomery Rotary Club; and

WHEREAS, Emma Clare, who is the 16-year-old daughter of Noel Arthur Jolliffe, a farmer, and Susan Margaret Jolliffe, a substitute teacher, lives on a farm near the country township of Forbes with her parents, grandparents, a twin brother, Mark, a 13-year-old brother, Peter, and a 7-year-old sister, Esther; and

WHEREAS, Emma Clare, whose ambition after graduation is to study law at the university and become a barrister or solicitor, is an exceptionally bright young lady of extraordinary talent and ability, who is completing her fourth year of secondary education at Forbes High School, where she was nominated as Forbes Ambassador of the Year in 1996, and most recently chosen as the Most Outstanding Student for 1997; and

WHEREAS, in her spare time, Emma Clare especially enjoys reading, painting, drawing, and tennis, and achieved top marks for her ability to speak and read Japanese, which she has studied for the past four years; also, three afternoons a week after school and on Saturdays, Emma Clare works as a shop assistant at a local news agency; and

WHEREAS, Emma Clare attends St. Johns Anglican Church, where she organizes and leads a youth service each month; she also attends a Christian youth group every few weeks, and was a part of the King's Kids Australia team, an international Christian organization group which travelled to the United States and Canada in 1996, the same year she was nominated as Forbes Ambassador of the Year; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with great pleasure that we recognize Miss Emma Clare Jolliffe for her many outstanding achievements, and extend to her a warm and cordial welcome to Montgomery and to the State of Alabama.

BE IT FURTHER RESOLVED, That Miss Jolliffe receive a copy of this resolution as an expression of our sincere esteem and best wishes for ever continuing happiness and success in all future pursuits and life's endeavors.

Approved February 9, 1998

Time: 8:30 A.M.

Act No. 98-64

S.J.R. 31 – Senators Freeman, Butler
and Bedford

SENATE JOINT RESOLUTION

COMMENDING ROBERT R. SAUNDERS OF HUNTSVILLE,
ALABAMA, FOR DISTINGUISHED SERVICE.

WHEREAS, special public recognition and highest commendation are herein accorded Robert R. (Ron) Saunders of Huntsville,

Alabama, an outstanding educator and leader in the field of education; and

WHEREAS, born April 19, 1947, married, and the father of one child, Ron Saunders earned his B. S. degree in Education from Auburn University; a Master of Education in Secondary and Social Sciences from Alabama A&M University; and an Ed.D in Secondary Education and Administration from the University of Alabama in 1982; and

WHEREAS, in a career in education which has spanned almost three decades, Ron Saunders has served successively as a high school and middle school teacher (1970-81), co-author and co-director, Drug Abuse Prevention Program (1978-81), community education specialist (1981-82), assistant principal, Edward White Middle School (1982-85), director, Staff Development and Career Incentive Program (1985-88), principal, Huntsville High School (1988-91), and as Superintendent of the Huntsville City School System since 1991; and

WHEREAS, through the years, in all aspects of his long and dedicated tenure, Mr. Saunders has remained committed in his resolve to provide and foster a quality education for the youth of the City of Huntsville, and resolute in all his efforts on their behalf, and has earned the highest admiration and respect of all with whom he has been associated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of distinguished service to public education in our state, and most particularly, to the Huntsville City School System, we hereby most highly commend Robert R. (Ron) Saunders, and direct that he receive a copy of this resolution as an expression of our gratitude and esteem, and sincere best wishes for every future happiness and success in retirement.

Approved February 9, 1998

Time: 8:31 A.M.

Act No. 98-65

S.J.R. 32 – Senator Dial

SENATE JOINT RESOLUTION

RECOGNIZING LANGDALE ON ITS ESTABLISHMENT OF THE FIRST PUBLIC KINDERGARTEN IN ALABAMA.

WHEREAS, it is a widely held view in this nation that education should be an endless process which better prepares citizens to function optimally in whatever circumstances they find themselves; and

WHEREAS, a German educator, Friedrich Froebel, believed that children could be prepared for school early in life if exposed to structured play in a school-like environment and labeled his concept "kindergarten," meaning "childrens' garden"; and

WHEREAS, Valley, Alabama, was formed in 1880 from four of Alabama's oldest textile mill villages: Fairfax, Langdale, River View, and Shawmut, and, during that time, the progressive Lanier family and other investors began to construct new buildings, including a public school on Cemetery Hill; and

WHEREAS, in 1896, the old school building on Cemetery Hill was ultimately used as a nursery and public kindergarten, lending evidence to its progressive nature and community involvement while establishing the area kindergarten program as one of the first public kindergarten systems to be put into operation in Alabama and in the United States; and

WHEREAS, kindergarten is usually the first school experience for youngsters and oftentimes gives them their first formal preparation for reading, writing, and other subjects, and the young children of Valley have greatly benefitted from Langdale Kindergarten, the first public kindergarten in Alabama; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Langdale Kindergarten in Valley, Alabama, is indeed commended on its enriching educational programs for young people and, by copy of this resolution, extended sincere best wishes for continued success.

Approved February 9, 1998

Time: 8:32 A.M.

Act No. 98-66

S.J.R. 33 – Senator Little

SENATE JOINT RESOLUTION

MOURNING THE DEATH AND COMMEMORATING THE LIFE OF JUDGE C. J. COLEY OF ALEXANDER CITY, ALABAMA.

WHEREAS, the death of Clinton Jackson Coley on December 16, 1997, at the age of 95 years has left a deep void not only in his community but in the entire state, where he will be remembered as an inspiration to the countless numbers whose lives he touched; and

WHEREAS, Judge Coley served on the Board of Trustees of the Alabama Department of Archives and History for 37 years and as its

chairman for 28 years, during which time he encouraged efforts to preserve the state's historical records and artifacts, and during which time he was instrumental in securing funding for an east wing of the Archives building completed in 1974 and named in his honor; and

WHEREAS, Judge Coley served as Probate Judge of Tallapoosa County for 14 years, during which time a new county courthouse was built and a new county health building was erected; and

WHEREAS, Judge Coley was a long-time member of the Alabama Historical Association, having served as president and executive board member, and having researched and presented numerous papers on aspects of Alabama history; and

WHEREAS, Judge Coley served as an original member of the Alabama Commission on Higher Education, during which time he worked with other commission members to foster excellence in education and to improve educational opportunities for all Alabamians; and

WHEREAS, Judge Coley served as a member of the President's Alabama Advisory Committee on Public Education and was one of 13 Alabamians selected by President Nixon to review and consider the educational impact of integration on Alabama schools; and

WHEREAS, Judge Coley served as Secretary of the Alabama Academy of Honor, an organization created to recognize outstanding Alabamians; and

WHEREAS, Judge Coley led the movement to create Horseshoe Bend National Military Park, and was named honorary member of the Creek Tribe in recognition of his work; and

WHEREAS, Judge Coley was an active supporter of the Boy Scouts of America and was awarded the Silver Beaver Award for his untiring support of scouting programs; and

WHEREAS, Judge Coley served as a member of the President's Cabinet at the University of Alabama at Tuscaloosa and as a member of the Advisory Committee at the University of Alabama at Birmingham at a time of major growth for the medical school; and

WHEREAS, Judge Coley served on the Board of Trustees of Lyman Ward Military Academy; and

WHEREAS, Judge Coley served as Trustee of the Eleventh Circuit Historical Society during which time he worked with federal judges to encourage the recording of the history of the Eleventh Judicial Circuit; and

WHEREAS, Judge Coley served as president of the Alexander City Chamber of Commerce and was named Man of the Year in 1965; and

WHEREAS, Judge Coley was a leader in the movement to revive Alexander City Arts, Inc., an organization dedicated to bringing major cultural opportunities to the city; and

WHEREAS, Judge Coley was a member of the Alabama Sesquicentennial Commission and the Alabama DeSoto Commission; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we also celebrate his life and his dedication and commitment to preserving the state's heritage and to improving the quality of life for all Alabamians. We, therefore, direct that a copy of this resolution be provided for his devoted wife, Evelyn; son, Jack Coley, Jr.; daughter and son-in-law, Evelyn Coley Puckett and Stephens C. Puckett; granddaughter, Coley Puckett; and to his other family members and many, many friends.

Approved February 9, 1998

Time: 8:33 A.M.

Act No. 98-67

S.J.R. 34 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING BEN RUSSELL UPON HIS ELECTION TO THE ALABAMA ACADEMY OF HONOR.

WHEREAS, highest commendation is herein extended to Ben Russell, CEO of Russell Lands, upon his election to the Alabama Academy of Honor, which is designed to honor and recognize living Alabamians for outstanding accomplishment and service; and

WHEREAS, over the years, Mr. Russell, concerned with the needs and welfare of others, has served with tireless devotion to establish CARE Alabama, the world's largest relief agency and first organization of its type benefiting CARE International; and

WHEREAS, his extraordinary work ethic is exemplified with astounding dedication and exemplary leadership as founder of Children's Harbor on Lake Martin to aid troubled or ill children and their families throughout the state; and

WHEREAS, Mr. Russell has further served as a member of the boards of directors of Russell Corporation, Russell Hospital, the Benjamin and Roberta Russell Charitable Foundation, and as a trustee for Lyman Ward Military Academy; and

WHEREAS, Ben Russell has indeed earned the respect and admiration of the people of the State of Alabama through his leadership, hard work, and selfless commitment to excellence; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Ben Russell, who is held in highest personal regard, is indeed congratulated and commended on his outstanding accomplishments and upon his election to the Alabama Academy of Honor.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. Russell with sincere admiration and warm best wishes for the future.

Approved February 9, 1998

Time: 8:34 A.M.

Act No. 98-68

S.J.R. 37 – Senators Denton and Bedford

SENATE JOINT RESOLUTION

INVITING MR. GEORGE LINDSEY TO ADDRESS A JOINT SESSION OF THE LEGISLATURE.

WHEREAS, this legislative body notes with admiration and appreciation the great humanitarian efforts of Mr. George Lindsey on behalf of the people of Alabama; and

WHEREAS, Mr. Lindsey has generously contributed his time to innumerable civic, educational, and charitable causes, and we find that it is most appropriate that upon the kick-off date of the George Lindsey Film Festival this friendly and famous Alabamian come visit his homefolks and sit a spell; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we cordially invite Mr. George Lindsey, a beloved and revered native son, to address a joint session of the Legislature on February 5, 1998, at a time to be set. Mr. Lindsey shall be provided a copy of this resolution so that he may know of this invitation and our sincere hope that he will honor us with his presence.

Approved February 9, 1998

Time: 8:35 A.M.

Act No. 98-69

S.J.R. 39 – Senator Poole

SENATE JOINT RESOLUTION

COMMENDING THE TUSCALOOSA COUNTY HIGH SCHOOL WILDCATS ON THE 1997 STATE CLASS 6-A FOOTBALL CHAMPIONSHIP.

WHEREAS, heartiest congratulations are herein extended to Head Coach Bobby Moore and the Tuscaloosa County High School Wildcats on their capture of the 1997 State Class 6-A Football Championship at Legion Field in Birmingham, a first-ever championship for a Tuscaloosa County High football team; and

WHEREAS, under the skillful leadership of veteran coach Bobby Moore, and assistant coaches Robbie Guthrie, Kenneth Hand, Donnie Spohn, Kevin Sherer, Keith Hendrix, Jamie Griffin, and Price Thompson, the talented Tuscaloosa County High Wildcats, following five weeks of spellbinding wins, rallied in the second half of championship play in an outstanding team effort and will-to-win spirit to soundly defeat Alexander City's Benjamin Russell Wildcats 28-14, finishing the season with a 12-3 record, and a seven game winning streak; and

WHEREAS, the 1997 Championship Wildcats, each of whom contributed greatly to an outstanding team effort are Derrick Lee, Chris Samuel, Kelvin McCants, Eddie Martin, Kerry Be'Ans, Marcello Johnson, Brian Gibson, Jerrometh Billups, Edward Spates, Buck Pettus, Edrick Smith, Bobby Moore, Byron Archibald, Patrick Stines, Danny Jordan, David Quincey, Cavin Parrish, Jamie Hawthorne, Michael Hope, Gabe Rogers, Eric Hollingsworth, Matt McGowan, Corey Pickens, Dallas Cook, Jake Case, Kyle Vanderford, Michael Aultman, John Williams, Jared Junkin, Jamarcus Murray, Steven Smiley, Kevin Tunnell, Patrick Prince, Adam Hughes, Maurice Samuel, Brad Pepper, Marc Duncan, Jonathan Grammer, Chris Cooper, Jonathan King, Chance Moyer, Courtney LeCroy, Bud Groff, Flynn Kline, Dylan Elmore, Travis Tidmore, R. J. Brown, Adam Bambarger, Josh Atkinson, D. J. Grissom, Patrick Logan, Scott Beams, Steven Sparks, Randy Brown, Adam Fair, Kelan Pollard, Derek White, Chris Gaddy, Charles Graves, Damarcus Granger, Terrence Spencer, Jeremy Samuel, Jeremy Oswalt, Zeb Landers, Shamus Drake, Bobby Snyder, Kurt Shackelford, Jarod Case, Eddie Walker, Shawn McAteer, Michael Spellman, Billy Smith, Sam Hall, Tyler Jolley, Josh Hollingshead, Eric Brownlee, Stephen Gibson, Trenton Sheperd, Elijah Weaver, Sam Bailey, Kenneth Hurt, Adam Prewitt, James Bunn, Fred Waller, James Palmore,

Kelley Royster, Jamil Foster, Brandon Wilson, Courtney Steele, Dee Thomas, and David Daniel; and

WHEREAS, also sharing in the credit and glory of the 1997 Championship were student assistants Mike Ray, Justin Burns, Mike Cassady, and Cliff Powell; communications and equipment staff members Byron Thornhill, and J. C. Hunter; head manager Alex Page and assistant managers Patrick Simmons, Jeff Jarvis, Scott Brown, and Andrew Hand; trainers Tim Brister, Christy Britt, and Wes Minor; and school administrators Steve Benson, principal; and assistant principals Nancy Terry and Willie Foster; and

WHEREAS, the Tuscaloosa County High Wildcats have indeed brought great honor to themselves, their school, and community through their exemplary accomplishment, and are truly deserving of highest praise and esteem; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Coach Bobby Moore, his outstanding team of coaches and staff, and the fantastic Tuscaloosa County High School Wildcats on the 1997 State Class 6-A Football Championship, and do further direct that copies of this resolution be forwarded to the school for appropriate presentation and school display.

Approved February 9, 1998

Time: 8:36 A.M.

Act No. 98-70

S.J.R. 40 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING REGINALD K. WRIGHT FOR HIS OUTSTANDING ACHIEVEMENTS WITH YMCA IN YOUTH GOVERNMENT.

WHEREAS, noted with highest commendation are the notable achievements of Reginald K. Wright, a senior at Oakdale High School in Montgomery, Alabama, who has represented excellence in youth government from 1995 to 1998; and

WHEREAS, an exceptionally bright and talented student, Reginald has been involved in countless school endeavors, including YMCA Youth Legislature and Youth City Council, and served with enthusiasm as president of YMCA Youth in Government; and

WHEREAS, Reginald, an active and faithful member of Usher Board and Youth Department at Sardis Baptist Church, has further participated in People Helping People and received a prestigious selection to Who's Who Among American High School Students; and

WHEREAS, his participation also is valuable and noteworthy as an intern at Reid O' Donahue Advertising, Client Services Associates, and ably served for the Alabama Senate during the 1996 session; and

WHEREAS, Reginald K. Wright is indeed a young Alabamian of extraordinary accomplishments, who has brought great credit to his family, school, community, and the State of Alabama, and has chosen to make a difference in society by the noblest means possible; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievement, we hereby most highly commend Reginald K. Wright and direct that a copy of this resolution be presented to him with highest praise and honor.

Approved February 9, 1998

Time: 8:37 A.M.

Act No. 98-71

S.J.R. 41 – Senator Little

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF GEORGE H. BLAKE, JR., OF AUBURN, ALABAMA.

WHEREAS, it is with deepest sorrow and regret that the Alabama Legislature notes the death of George H. Blake, Jr., of Auburn, Alabama, on June 12, 1997, at the age of 74 years; and

WHEREAS, Mr. Blake, who died as the result of a tragic automobile accident, retired in 1983 following 32 years of dedicated service as a professor in the Zoology-Entomology Department of Auburn University; and

WHEREAS, Mr. Blake, who joined the university as a researcher with the Alabama Agricultural Experiment Station, earned both his bachelor's and master's degrees from Auburn, and his doctorate from the University of Illinois; and

WHEREAS, over his longtime dedicated tenure at Auburn, George Blake demonstrated utmost commitment and concern for

the education and well-being of those young people under his tutelage, earning the love and admiration of his young students, who several times voted him most outstanding teacher, and the highest regard and respect of all with whom he was associated as an outstanding educator and a dedicated professional; and

WHEREAS, in addition, he was a veteran of World War II; a member of a number of professional and honorary societies; and was actively involved in civic and community affairs, including Boy Scouts, Auburn Little League Baseball, Auburn Lion's Club, and as a member of the Auburn City Council; he also had an avid interest in beekeeping, and was a past president of the Alabama Beekeeping Association; and

WHEREAS, in the lamentable death of George H. Blake, Jr., the community has indeed suffered a deep and grievous loss; his contributions, however, to the education of our youth serve as a lasting legacy and an appropriate monument to his memory; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are indeed saddened by the death of George H. Blake, Jr., of Auburn, Alabama, and, by copy of this resolution, extend heartfelt sympathy to his beloved wife, Bruce Davis Blake; daughter, Sally Blake Headley; sons, George H. Blake III, Dr. James D. Blake, and John F. Blake; four grandchildren, Jennifer Marie Greene, Suzanne Michelle Greene, Hayden Blake Headley, and Covert Lee Headley; and other close family members and friends whose sorrow we sincerely share.

Approved February 9, 1998

Time: 8:38 A.M.

Act No. 98-72

S.J.R. 42 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING RON MYERS FOR HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, it is with a sense of pride that Ron Myers is recognized for his distinguished professional career as Lee County district attorney and, as a tribute to his exemplary record of service, he is deserving of special public commendation; and

WHEREAS, Mr. Myers has made an enormous impression with his exemplary work performance as Lee County's top prosecutor for 25 years, as well as contributed significantly toward the good and well-being of his fellow citizens; and

WHEREAS, with retirement plans for January 1999, his work as a learned, able, and competent district attorney will long serve as a permanent testimony of his judicial knowledge and ability, reflecting his search for truth and justice; and

WHEREAS, Ron Myers has indeed succeeded in compiling an impressive record of career achievements, and has earned the admiration and respect of those persons who have had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Ron Myers is indeed commended on his distinguished professional achievements as Lee County district attorney and, by copy of this resolution, extended sincere best wishes for continued success in the future.

Approved February 9, 1998

Time: 8:39 A.M.

Act No. 98-73

S.J.R. 43 – Senator Armistead

SENATE JOINT RESOLUTION

COMMENDING MARY LEMOYNE GLASGOW ON HER MERITORIOUS SERVICE WITH THE CITY OF CALERA.

WHEREAS, special recognition and highest commendation are herein extended to Mary Lemoyne Glasgow on her outstanding career as a dedicated employee of the City of Calera for 29 years; and

WHEREAS, Mrs. Glasgow graduated from Montevallo High School in 1966, received her City Clerk Certification from the University of Alabama, and attended the Alabama League of Municipalities Educational Training Program; and

WHEREAS, over the years, Mrs. Glasgow, who served as Calera City Clerk, also has demonstrated her seemingly unlimited capacity for work as secretary of the Calera Water Works Board, administrative official and secretary of the Calera Planning Commission, trustee of the Salem Cemetery Trust, and as a respected member of the Sysco Project; and

WHEREAS, Mrs. Glasgow further distinguished herself through her diligence and devotion as a member of the Calera PTA, Alabama Municipal Clerks Association, International Association of Municipal Clerks, and as a faithful member of Calera Baptist Church; and

WHEREAS, she is married to her loving and supportive husband, James F. "Buddy" Glasgow, and they are the proud parents of Dana L., Robert Daryl, and Michael Blair Payton; and

WHEREAS, the highly efficient manner in which Mary Lemoyne Glasgow has carried out her many duties and responsibilities has indeed earned for her the admiration and regard of all with whom she has been associated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of an outstanding professional career in public service, highest commendation is hereby accorded Mary Lemoyne Glasgow, for whom a copy of this resolution shall be provided with sincere regards and best wishes for the future.

Approved February 9, 1998

Time: 8:40 A.M.

Act No. 98-74

S. 78 – Senator Sanders

AN ACT

Relating to the Public Education Employees' Health Insurance Program (PEEHIP), to specify that transfers shall be made each month from the Education Trust Fund to the PEEHIP Board of Control, to insure a 12 percent reserve in the PEEHIP Board of Control Fund, any provisions of Act 97-856, 1997 Special Session to the contrary notwithstanding, and to provide additional clarifying language.

Be It Enacted by the Legislature of Alabama:

Section 1. Any provision to the contrary notwithstanding in Act 97-856, 1997 Special Session, which provides annual education appropriations for the fiscal year 1997-98 relating to the Public Education Employees Health Insurance Program (PEEHIP), the PEEHIP Board of Control, through its administrator and secretary-treasurer, shall notify the State Comptroller and the State Finance Officer of the amount of funds necessary to be transferred from the Education Trust Fund to the PEEHIP Board of Control monthly in order to maintain a monthly reserve of twelve percent (12%), and such amounts as may be necessary shall be transferred.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved February 9, 1998

Time: 8:41 A.M.

Act No. 98-75

S. 143 – Senator Dial

AN ACT

Relating to Cleburne County; providing for the establishment of a unit system for road maintenance, repair, and construction; providing for the employment, qualifications, and compensation of a county engineer; and defining the authority, powers, and duties of the county engineer and county commission.

Be It Enacted by the Legislature of Alabama:

Section 1. The Cleburne County Commission shall set the necessary policies and priorities for the construction, maintenance, and repair of all public roads, county highways, bridges, ferries, and public facilities within Cleburne County, Alabama, to provide the people of Cleburne County with a safe and adequate road system.

Section 2. The Cleburne County Commission, or any succeeding county governing body, shall appoint and employ a county engineer, who shall be a thoroughly qualified and competent professional engineer and may or may not be a land surveyor. The county engineer shall possess all of the qualifications as specified for county engineers under the general laws of the State of Alabama. The county engineer shall devote his or her entire time and attention to the maintenance and construction of the Cleburne County public roads, highways, bridges, ferries, and other county engineering projects and shall, during employment, reside in Cleburne County, Alabama. The county engineer shall serve at the pleasure of the county commission.

Section 3. It shall be the duty of the county engineer to:

(1) Employ, supervise, and direct all assistants to properly maintain and construct the public roads, highways, bridges, and ferries of the county, and prescribe the duties of these employees and discharge employees for cause or when employees are not needed.

(2) Perform engineering and surveying service as may be required, and to prepare and maintain the necessary maps and records.

(3) Maintain the necessary accounting records to reflect the cost of the county highway system.

(4) Build or construct new roads, or change old roads, but only when ordered to do so by proper order of the county commission.

(5) Construct and maintain all county roads on the basis of the county as a unit to the extent it is feasible, without regard to any district or beat lines.

Section 4. It shall be the duty of the commission to fix, from time to time, in accordance with prevailing economic conditions, the various scales of wages or salaries to be paid for labor necessary in the maintenance and construction of roads, bridges, ferries, and public facilities. The wage or salary scale shall not be exceeded by the engineer in employing labor and assistants.

Section 5. The commission shall fix the amount of the salary of the county engineer, payable in equal monthly installments from appropriate road and highway funds.

Section 6. Before entering upon his or her duties, the county engineer shall make and enter into a surety bond in the amount set from time to time by the county commission, payable to Cleburne County, conditioned on the faithful discharge and performance of his or her duties as engineer, and for the faithful accounting of all monies or property of Cleburne County, which may come into his or her possession or custody. The bond shall be executed by a surety company authorized and qualified to do business in Alabama and be approved by the commission. The premiums shall be paid by the county.

Section 7. The commission shall furnish the county engineer with an office within the county and all necessary office supplies, equipment, communication, utilities, and necessary transportation to accomplish his or her duties under this act.

Section 8. The county engineer shall be the custodian and accountable to the county commission for all road machinery and equipment, tools, supplies, and repair parts owned by Cleburne County. The county commission shall establish necessary policies and regulations governing accountability and relief therefrom. The commission shall furnish the necessary storage and repair facilities for the tools, machinery, supplies and equipment, and the county engineer shall keep on file in his or her office an up-to-date inventory containing a list of all tools, machinery, equipment, parts, and supplies owned by the county.

Section 9. The authority of the county engineer to expend funds shall be limited to the requisition for the expenditure of

funds for the purpose of construction, maintenance, or repairs of public roads, bridges, ferries, or any other duties for Cleburne County as may be set aside and appropriated by the commission as hereinafter provided. It shall be the duty of the commission at some meeting in September of each calendar year, or not later the first meeting in October following, by order or resolution spread upon the minutes, to fix and determine the amount of funds which will be available for the purpose of building, maintaining, and constructing public roads, bridges, and ferries of Cleburne County for the current fiscal year, beginning on October 1st, which amount, other than the salary of the county engineer, shall not be exceeded in the performance of duties required of the county engineer for that period. The commission is authorized from time to time within any period, to increase the amount so allowed to be expended by the county engineer during the period, when the authorization will not conflict with provisions of the general law under the Budget Act, Section 11-8-3 of the Code of Alabama 1975. Immediately upon the passage and approval of this act, if funds are presently available and have not been set aside by the present county commission for the current fiscal year, it shall be the duty of the commission to set aside a sufficient portion of the balance of the funds for the maintenance of the roads, bridges, and ferries until the next meeting in September or October as provided by this act.

Section 10. The county engineer shall make written requisition to a county purchasing agent for all materials, machinery, equipment, and necessary supplies needed for the construction, maintenance, or repair of the public roads, bridges, and ferries of Cleburne County. The requisitions shall be filed and presented by the chair to the commission at its next meeting, for the approval of the commission. The county purchasing agent may make purchases without first obtaining the approval of the county commission if in the judgement of the engineer, the delay caused by this procedure **may cause an unnecessary and harmful interruption in the operation** of the county road system. The purchases shall be made in accordance with prevailing law. The county purchasing agent shall be solely responsible and accountable for purchasing the materials, machinery, equipment, and supplies under the approved requisitions and shall report these monthly to the county commission.

Section 11. It shall be the further duty of the county engineer to inspect and approve on delivery all materials, machinery, equipment, and supplies, purchased by the county for the use on public roads, bridges, and ferries prior to payment. Any deviation from this policy shall be reported by the engineer to the county commission.

Section 12. In the event of an emergency in which it would be impossible for the commission to employ an engineer, the commission

shall employ a competent road supervisor who need not be an engineer, but, when so employed shall have all the duties and authority of the engineer, and be subject to this act. An emergency employment of a competent road supervisor shall not exist longer than necessary to employ a qualified engineer who will accept employment by the commission under the terms of this act. It is the intention of this act to provide that, when county roads, bridges, and ferries are to be maintained or constructed in the county, the supervision thereof shall be under a qualified engineer.

Section 13. Each member of the county commission shall inspect the roads and bridges of his or her district, from time to time, hear the suggestions and complaints of the citizens, and report the suggestion or complaint to the county commission with his or her recommendations. The members of the county commission shall also assist in securing right-of-way and assist in public relations generally.

Section 14. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 15. All laws or parts of laws which conflict with this act are repealed.

Section 16. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved February 9, 1998

Time: 8:42 A.M.

Act No. 98-76

H.J.R. 65 – Rep. Gipson

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF THE REVEREND MARION
WARDNER MEDDERS OF PRATTVILLE, ALABAMA.

WHEREAS, it is with deepest sorrow and regret that the Legislature of Alabama records the death of the Reverend Marion Wardner Medders of Prattville, Alabama, on January 9, 1998, at the age of 73 years; and

WHEREAS, for some 46 of his 50 years in the ministry, and as Pastor Emeritus following his retirement in 1995, Reverend Medders, or “Preacher” as he was lovingly known, served as an

inspiration to his church family at Prattville Wesleyan as a true symbol of strength, love and commitment to the Lord and, under his spiritual leadership and guidance, Prattville Wesleyan grew and flourished in all aspects of its ministry and witness; and

WHEREAS, born in Heighburger in Perry County, the son of the Reverend M. A. and Lola Avery Medders, Marion Wardner Medders felt God's call to the ministry at the early age of 17 and, within a few years, shortly after World War II, was called to the little town of Prattmont, where he supervised the construction of the first Prattville Wesleyan Church, a labor of love he would undertake again some years later when a new church was built at its present location; and

WHEREAS, in addition to his pastoral duties, Reverend Medders was a skilled carpenter, teacher, and guidance counselor, and was active in the Delta District of the Wesleyan Church, the Prattville Christian Ministers' Fellowship, the Republican Party, and was one of the first members of the Prattville Civitan Club; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks to God for the life and service of Marion Wardner Medders of Prattville, Alabama, and, by copy of this resolution, extend our deepest sympathy to his beloved wife, Dorothy Medders, his partner in life for some 53 years; to his son and daughter-in-law, David and Anne Medders; daughters, Martha Headley, and Mary Smith, and son-in-law, Tim Smith; to his 11 grandchildren and great-grandchildren; brother, John Medders; and to other close family members and friends, whose sorrow we sincerely share.

Approved February 9, 1998

Time: 8:43 A.M.

Act No. 98-77

H.J.R. 66 – Rep. Crigler

HOUSE JOINT RESOLUTION

COMMENDING BRYAN W. SHORES ON OBTAINING THE RANK OF EAGLE SCOUT.

Bryan W. Shores, a member of Boy Scout Troop 137 in Grand Bay, Alabama, has successfully completed the requirements for the prestigious rank of Eagle Scout, scouting's highest honor, and

will be recognized by a Court of Honor Ceremony on February 21, 1998; and

WHEREAS, Bryan, who began his scouting experience as a Cub Scout in Troop 127, ultimately earned this coveted Eagle Scout Award through countless hours of hard work while achieving 54 merit badges and, for his Eagle Scout project, coordinated a highly successful plan to rebuild the captain's quarters at historical Fort Gaines on Dauphin Island, Alabama, building five double bunks, two large picnic tables, and one small picnic table; and

WHEREAS, he is the 17 year-old grandson of Clyde and Ruth Shores and attends First Independent Methodist Church School in Mobile, Alabama; he also is a member of the Sixth Alabama Calvary Reenactment and holds a Black Belt in tae kwon do and BSA certifications as a scuba diver, life guard, and snorkeler; and

WHEREAS, Bryan has indeed developed leadership ability and earned the esteem of his community and fellow scouts and his scouting achievements reflect the highest ideals of American youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Bryan W. Shores is congratulated on his achievement of the rank of Eagle Scout and, by copy of this resolution, is extended sincere best wishes for future success.

Approved February 9, 1998

Time: 8:44 A.M.

Act No. 98-78

H.J.R. 67 – Rep. Carter

HOUSE JOINT RESOLUTION

RECOGNIZING PRIME MINISTER ERWIN TEUFEL OF BADEN-WURTTENBERG, ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS AND WELCOMING HIM TO ALABAMA.

WHEREAS, Prime Minister Erwin Teufel has brought great credit and distinction to himself through his professional achievements, and it is appropriate to highlight his many accomplishments and to extend special honor and highest commendation; and

WHEREAS, Prime Minister Teufel, who was elected President of the Bundesrat of the Federal Republic of Germany on November

1, 1996, was re-elected for the 11th legislative period on June 11, 1992, and 12th legislative period on June 12, 1996;

WHEREAS, he has provided exemplary leadership and progressive attitudes as a member of the State Parliament of Baden-Wurttemberg for Villigen-Schwanningen, as State Secretary for both the Ministry of the Interior and the Ministry of Environmental Protection, and as a worthy role model and leader of the CDU Parliamentary Group, among countless others; and

WHEREAS, over the years, he served with distinction as first vice president of the Assembly of European Regions and member of the Committee of the Regions of Europe, including the committee board; Prime Minister Teufel also was intensely involved and contributed significantly as president of the German Jerusalem Foundation and chairman of the Advisory Council of the German Sponsoring Association for the German Center of Industry and Commerce in Singapore; and

WHEREAS, Prime Minister Erwin Teufel has indeed succeeded in compiling an impressive record of public service and professional achievements, and has earned the admiration and respect of those persons who have had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his many accomplishments and extraordinary service as President of the Bundesrat of the Federal Republic of Germany and as Prime Minister of Baden-Wurttemberg, we most highly commend Prime Minister Erwin Teufel, for whom a copy of this resolution shall be provided as an expression of our tribute and esteem.

Approved February 9, 1998

Time: 8:45 A.M.

Act No. 98-79

H.J.R. 68 – Rep. Carter

HOUSE JOINT RESOLUTION

INVITING MR. ERWIN TEUFEL OF THE STATE OF BADEN-WURTTENBERG, GERMANY, TO ADDRESS A JOINT LEGISLATIVE SESSION.

WHEREAS, the State of Baden-Wurttemberg, in the South-western portion of the Federal Republic of Germany (Deutschland), is one of the strongest industrial regions of all of Europe; and

WHEREAS, one-fourth of all German exports to the United States of America originate from Baden-Wurttemberg; and

WHEREAS, the State of Baden-Wurttemberg is the world headquarter home of Daimler-Benz AG known as the manufacturer of some of the world's best and most popular automobiles; and

WHEREAS, Daimler-Benz AG selected Tuscaloosa, Alabama, as the USA home for Mercedes-Benz United States International (MBUSI) and produces hundreds of automobiles each day for the world market; and

WHEREAS, the ML320 made in Alabama has received more than one dozen highly prestigious awards from the automobile industry, reflecting great credit on MBUSI and their Alabama workers; and

WHEREAS, the State of Baden-Wurttemberg is the headquarter home to more than 36,000 members of the U.S. military; and

WHEREAS, Prime Minister Erwin Teufel of the State of Baden-Wurttemberg honored Governor Fob James and a delegation of Alabama business leaders in Stuttgart in 1996; and

WHEREAS, Prime Minister Teufel is currently heading a delegation of 95 Baden-Wurttemberg officials and business leaders to Alabama and the USA; and

WHEREAS, the ties between Baden-Wurttemberg and Alabama grow stronger each day through cultural, educational, and business cooperation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we extend an invitation to Prime Minister Erwin Teufel to address a joint session of the Alabama Legislature on the morning of February 19, 1998, at a time to be decided upon, and accept our very best wishes for an enjoyable and productive journey to Alabama.

Approved February 9, 1998

Time: 8:46 A.M.

Act No. 98-80

H.J.R. 69 – Rep. Willis

HOUSE JOINT RESOLUTION

COMMENDING THE ALEXANDRIA VALLEY CUBS FOOTBALL TEAM ON ITS 4A STATE CHAMPIONSHIP.

WHEREAS, the Alexandria Valley Cubs High School Football Team won the 1997 Class 4A State Championship with a spectacular

24-14 championship game victory, thus bringing immense happiness and pride to the community and state, and all of those individuals associated with the team are deserving of special public commendation; and

WHEREAS, enduring near freezing temperature, the Cubs remembered the wisdom of Coach Larry Ginn that “big plays win the game” and finished their championship run with 12 consecutive wins and enjoyed the longest winning streak in the state; and

WHEREAS, Mac Campbell, most valuable player, as well as the state’s all-time leading rusher, is a three-time all-state tailback who captured a national record of 153 touchdowns, rushed for 9,827 yards, and ended his senior season with 2,584 yards and 38 touchdowns; and

WHEREAS, the Alexandria Valley Cubs High School Football Team, who earned this coveted crown in front of countless fans, was recognized by Alexandria High School Principal Chamblin for their spirit, tradition of good sportsmanship, and dedication in achieving this coveted goal; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the members of the Alexandria Valley Cubs High School Football Team are most highly commended and congratulated on their Class 4A State Football Championship, and it is further directed that a copy of this resolution be provided to Coach Ginn for appropriate school display with sincere best wishes for continued success in the future.

Approved February 9, 1998

Time: 8:47 A.M.

Act No. 98-81

H.J.R. 70 – Rep. Willis

HOUSE JOINT RESOLUTION

COMMENDING COACH LARRY GINN OF ALEXANDRIA VALLEY HIGH SCHOOL ON HIS DISTINGUISHED COACHING CAREER.

WHEREAS, Coach Larry Ginn is widely known and respected not only as a high school football coach, but also for the positive impact he has had upon the young students under his tutelage; and

WHEREAS, he has served as mentor and friend to the students at Alexandria Valley High School in Calhoun County, and to

the many young athletes, who have so greatly benefitted from his guidance, and who have carried the effect of his leadership into their every day lives as adults and responsible citizens; and

WHEREAS, we further note that the unparalleled success of the Cub's 24-14 Class 4A State Championship win over Greensboro, and the team's second spectacular state football title in three years and its third in 12 years, is the result of not only the devotion and hard work of the members themselves, but also the experience, dedication, and leadership provided by Coach Ginn; and

WHEREAS, Coach Larry Ginn has served in exemplary citizenship as a prominent civic and community leader, and is indeed deserving of highest praise for his outstanding professional achievements; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we highly commend Coach Ginn for his contributions to high school athletics, and do further direct that he receive a copy of this resolution with our warmest personal regards.

Approved February 9, 1998

Time: 8:48 A.M.

Act No. 98-82

H.J.R. 71 – Rep. Venable

HOUSE JOINT RESOLUTION

COMMENDING CHIEF J. T. MONTGOMERY OF WETUMPKA, ALABAMA, ON HIS DISTINGUISHED LAW ENFORCEMENT CAREER.

WHEREAS, it is with highest commendation and tribute that the Legislature of Alabama notes the distinguished public service career of J. T. Montgomery as Chief of Police for the City of Wetumpka; and

WHEREAS, Chief Montgomery, who will retire, effective February 2, 1998, began his years of service with the city some 14 years ago, and was named Chief of Police in 1990; and

WHEREAS, for the past seven years, Chief Montgomery has provided the department with outstanding leadership and, in his discharge of the duties and responsibilities of the office, has worked diligently to safeguard the lives and property of the citizens of Wetumpka; and

WHEREAS, Chief Montgomery is indeed one of Alabama's most loyal and dedicated law enforcement officials, and one who has served long and well in his charge to defend the peace and uphold the law to the good and well-being of the public; and

WHEREAS, a native of Wetumpka, and the son of the late C. F. Montgomery and Sally Montgomery, Chief Montgomery graduated from Wetumpka High School and served for 22 years in the United States Army Signal Corps, and for five years in the Army Reserves; he is married to Bernadette Montgomery, and they are the proud parents of two children, John F. Montgomery, and Christine Montgomery Blake; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding public service as Chief of Police for the City of Wetumpka, Alabama, we hereby commend Chief J. T. Montgomery, and do further direct that he receive a copy of this resolution, executed in highest regard and with best wishes for every future happiness and success in retirement.

Approved February 9, 1998

Time: 8:49 A.M.

Act No. 98-83

H.J.R. 74 – Rep. Crigler

HOUSE JOINT RESOLUTION

COMMENDING RONALD ADAM MEGGINSON ON OBTAINING THE RANK OF EAGLE SCOUT.

WHEREAS, Ronald Adam Megginson, a member of Boy Scout Troop 137, has successfully completed the requirements for the prestigious rank of Eagle Scout, scouting's highest honor, and will be recognized by a Court of Honor Ceremony on February 7, 1998; and

WHEREAS, he is the son of proud parents Ronald A. and Helen P. Megginson of Irvington, Alabama, and began his scouting experience in the third grade as a wolf in Cub Scouts; and

WHEREAS, Adam achieved the coveted rank of Eagle Scout through countless hours of hard work by earning numerous merit badges and, for his Eagle Scout project, carried out a highly successful plan to build a playground on the grounds of Zirlott Road United Methodist Church, thereby creating an area for the children in the community to enjoy for many years; and

WHEREAS, while 32 scouts received their Eagle Scout Award in the Mobile Area Council in 1997, Adam, in whom we take great pride, is one of only four recipients from Boy Scout Troop 137 to receive this award; and

WHEREAS, Adam has indeed developed leadership ability and earned the esteem of his community and fellow scouts and his scouting achievements reflect the highest ideals of American youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Ronald Adam Megginson is congratulated on his achievement of the rank of Eagle Scout, and commended for his outstanding attainment in qualifying for this high honor and, by copy of this resolution, is extended sincere best wishes for future success.

Approved February 9, 1998

Time: 8:50 A.M.

Act No. 98-84

H.J.R. 75 – Rep. Parker (P)

HOUSE JOINT RESOLUTION

DESIGNATING THE JEFF DOLBARE PUBLIC BOAT RAMP.

WHEREAS, this legislative body finds it is highly proper and appropriate to recognize in a lasting manner the public service of Representative Jeff Dolbare to the citizens of this state and in particular the residents of House of Representatives District 65; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the boat ramp on the Tombigbee River at McIntosh, Alabama, is hereby designated and shall henceforth be known as the Jeff Dolbare Public Boat Ramp. The Department of Transportation is directed to erect by August 1, 1998, signs on both sides of Highway 43 at the Industrial Road and Highway 43 indicating this designation. In addition, the Washington County Commission is directed to erect a sign by August 1, 1998, at the intersection of Industrial Road and River Road in McIntosh, Alabama, indicating this designation.

Approved February 9, 1998

Time: 8:51 A.M.

Act No. 98-85

H.J.R. 77 – Rep. Robinson

HOUSE JOINT RESOLUTION

COMMENDING THE THREE ARTS CLUB OF SCOTTSBORO, ALABAMA.

WHEREAS, the Scottsboro Three Arts Club, founded in May of 1951, is a consortium of twenty dedicated women, who, for over 47 years, have undertaken to promote, support, and nurture all activities which contribute to a better way of life in their community, and assure the opportunity for Scottsboro youth to experience the arts in a way that would otherwise have never been possible; and

WHEREAS, over the years, the Three Arts Club has undertaken numerous projects to raise funds for countless charitable causes, including its largest ongoing undertaking, First Monday's Art Sunday, an outdoor arts and crafts show held annually at Caldwell Park in conjunction with the Labor Day First Monday events in Scottsboro, the proceeds from which have made it possible for the club to set up a scholarship program whereby grants of \$1,000 each are given to two qualified high school students to attend a college of their choice; and

WHEREAS, other ongoing projects include the sponsorship of a student to summer music camp at the University of the South in Sewanee, Tennessee; funding for a disabled child to attend summer camp; Christmas gifts to welfare children and to Bryce Hospital in Tuscaloosa; contributions to the March of Dimes, the Scottsboro Public Library, the recreation department, the Heart Fund, and other charitable causes; it is also worthy to be noted that as one of its first projects the club through its tireless efforts was instrumental in the accreditation of the Scottsboro High School Library; and

WHEREAS, also, among major donations was the club's commitment of \$25,000 toward the new theatre at Northeast Alabama Community College in 1989; major funding to the arts at Northeast Alabama Community College; and their most recent and largest donation of \$100,000 to the Scottsboro City School System's Educational Foundation; and

WHEREAS, it is further to be noted that in furtherance of its goals, the Three Arts Club has been instrumental in creating its own progeny to enhance its effectiveness by creating two women's clubs in Scottsboro, the Women's League and The Junior Progress Club for Women; now therefore.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest

commendation is hereby accorded the Three Arts Club and the twenty women who comprise it for their outstanding contributions and generosity of service to the benefit and betterment of the Scottsboro community.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided as a measure of our gratitude, sincere best wishes, and esteem.

Approved February 9, 1998

Time: 8:52 A.M.

Act No. 98-86

H.J.R. 79 – Rep. Laird

HOUSE JOINT RESOLUTION

CONGRATULATING MRS. ETTER STRIBLIN ON THE CELEBRATION OF HER 100TH BIRTHDAY.

WHEREAS, it is with warm affection and heartfelt congratulations that Mrs. Etter Striblin of the Tin Shop Community is recognized on the occasion of her 100th birthday, and was honored by family and friends at a gala birthday celebration at the renovated Potash School on January 18, 1998; and

WHEREAS, with a wealth of knowledge and keen sense of humor, Mrs. Striblin remembers when Native Americans were seen in the Tin Shop area and the mail carrier came up the dirt road in a buggy, and continues to amaze everyone with her alertness, positive attitude, and ever-present warm and friendly smile; and

WHEREAS, a warm and gracious lady who has been blessed by God and her friends at Potash Church of God, Mrs. Striblin especially enjoys cornbread and sweet milk, peas and turnip greens, grits with crumbled-up bacon, and a night-time treat of ice cream before going to bed; and

WHEREAS, she is a well-known and much loved member of the Tin Shop Community and was married to her devoted husband, Joe Striblin, for 50 years; she is the proud parent of four children, Bernice Mulkey and Robert Striblin, now deceased; and Dorothy Robinson and Classie Baldwin, with whom Mrs. Striblin lives; and

WHEREAS, she also is extremely proud of her 16 grandchildren; 28 great grandchildren, and 16 great-great grandchildren;

and is to be commended for the love and dedication she has demonstrated to her family; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating Mrs. Etter Striblin on the celebration of her 100th birthday, and do further direct that she receive a copy of this resolution, executed in sincere admiration and esteem.

Approved February 9, 1998

Time: 8:53 A.M.

Act No. 98-87

H.J.R. 81 – Rep. Newton (C)

HOUSE JOINT RESOLUTION

COMMENDING FLORENCE HOWELL ON HER MERITORIOUS CAREER WITH THE ALABAMA COURT SYSTEM.

WHEREAS, special recognition and highest commendation are herein extended to Florence Howell on her outstanding career as an accomplished and dedicated employee of the Alabama Court System for almost 20 years; and

WHEREAS, over the years, Florence Howell, who serves as court specialist, chief bookkeeper, and office supervisor in the office of the Clerk of the Circuit Court, Second Judicial District, Butler County, Alabama, has most clearly demonstrated her extraordinary ability and her seemingly unlimited capacity for work, and distinguished herself through her diligence and devotion to those whom she has served; and

WHEREAS, she has served with great dedication, and the highly efficient manner in which she has carried out her many duties and responsibilities has earned for her the highest admiration and regard of all with whom she has been associated; and

WHEREAS, as a matter of interest, it was during Mrs. Howell's tenure that her office was part of the pilot program which resulted in Alabama's court system becoming the first fully automated system in the country; and

WHEREAS, Mrs. Howell is a faithful member of the parish at St. Elizabeth Catholic Church; she also is the devoted mother of five children, all of whom are college graduates and useful and productive citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of an outstanding professional career in public service, highest commendation is hereby accorded Florence Howell, for whom a copy of this resolution shall be provided with sincere regards and best wishes for the future.

Approved February 9, 1998

Time: 8:54 A.M.

Act No. 98-88

H.J.R. 82 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING BRANDY ADCOCK OF LIMESTONE COUNTY UPON HER SELECTION AS 1998 MISS ALABAMA AGRICULTURE.

WHEREAS, noted with great pleasure and highest commendation is the selection of Brandy Adcock of Limestone County upon her selection as 1998 Miss Alabama Agriculture; and

WHEREAS, a lady of exceptional talent and ability, Miss Adcock, who is the 21 year-old daughter of Paul and Dale Adcock, received her degree in fashion and interior design from Hardeman University in Henderson, Tennessee; and

WHEREAS, selected by her fellow contestants as the pageant's Miss Congeniality, she also will receive a \$2,000 scholarship and the opportunity to drive a 1998 Chevrolet Camaro, while serving as an ambassador for Alabama agriculture for one year; and

WHEREAS, with her keen intelligence and unshakable integrity, Brandy Adcock has improved the social graces of the Southern woman and is indeed deserving of this prestigious honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon her selection as 1998 Miss Alabama Agriculture, and in recognition of outstanding achievement, we hereby most highly commend Brandy Adcock, for whom a copy of this resolution shall be provided with sincere best wishes for continued success.

Approved February 9, 1998

Time: 8:55 A.M.

Act No. 98-89

H.J.R. 83 – Reps. Crigler and Clark (W)

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM J. CLARK ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, William J. Clark of Mobile, Alabama, has brought great credit and distinction to himself through his career achievements, and it is appropriate at this time to highlight his many accomplishments, and to extend special honor and highest commendation; and

WHEREAS, Mr. Clark, who began employment with Kimberly Clark Paper Company, formerly Scott Paper Company, in Mobile on September 5, 1964, has succeeded in compiling an impressive record of career achievements and has made a lasting impression on those individuals with whom he has been associated; and

WHEREAS, a faithful member of Theodore Methodist Church, Mr. Clark married his loving wife, Anna, in 1959, and they are the proud parents of two children, Joey Clark and Lorie Martin; and the doting grandparents to two grandsons, Auston and Tyler; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mr. William J. Clark is commended on his long and distinguished record of professional service and, by copy of this resolution, extended sincere best wishes for a rewarding and gratifying retirement on February 1, 1998.

Approved February 9, 1998

Time: 8:56 A.M.

Act No. 98-90

H.J.R. 84 – Reps. Hinshaw, Hall (A),
Jorgensen, Hall (L),
Papucci, Sanderford and
Haney

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF TILLMAN HILL OF HUNTSVILLE, ALABAMA.

WHEREAS, it is with deep and profound sorrow that the Legislature of Alabama records the death of Tillman Hill of

Huntsville, Alabama, on January 13, 1998, at the age of 65 years; and

WHEREAS, over his long and dedicated tenure spanning some 20 years as a member of the Madison County Commission, Tillman Hill made significant and enduring improvements to the county he loved and to the good and well-being of all its citizens and, as a result of his tireless hard work and unswerving commitment, succeeded in compiling an impressive record of achievements, a record that would earn for him the highest regard and admiration of all who were privileged to know him; and

WHEREAS, he was instrumental in establishing Madison County's Fire Marshal post, Building Inspection Department, animal control, mosquito, and weed-control programs and, most especially dear to his heart, the completion of Sharon Johnston Park near New Market, the Tillman Hill Library in Hazel Green, and the expansion of the rural water system, providing safe water to over 90% of the people in the county; and

WHEREAS, additionally, Mr. Hill provided invaluable leadership and service to the Association of County Commissioners of Alabama, receiving its Outstanding Contribution to County Government Award; he was also the recipient of such other eminent awards and honors as the Good Government Award from the Huntsville Jaycees, a state leadership honor, and induction into the Alabama Building Industry Hall of Fame, to name a few; and

WHEREAS, further, he was a member of the promotion committee for the U.S. Space and Rocket Center, a state license inspector for the county, a member of the state Democratic Executive Committee, a Mason, Shriner, and Jaycee, a member of the Veterans of Foreign Wars, American Legion, Elks, and the Eagles Fraternal Order, a PTA officer, and a coach of Little League football, among numerous other involvements; and

WHEREAS, a native and lifelong resident of Madison County, Mr. Hill grew up in Lincoln Village, one of the city's several old mill communities; served as a member of the United States Army during the Korean War; was employed by the Huntsville Times for some 29 years; managed local political campaigns; and served under the appointment of Governor George C. Wallace on the Board of Equalization before his election to the County Commission in 1976, a position he would hold for four terms; now therefore.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are indeed saddened by the death of Tillman Hill of Huntsville, Alabama, and, by copy of this resolution, extend heartfelt sympathy to his

devoted wife, Betty Jo Stewart Hill; daughter, Carla Diane Hill York; son, Gary Dee Hill; two grandchildren; and other close family members and friends, whose sorrow we sincerely share.

Approved February 9, 1998

Time: 8:57 A.M.

Act No. 98-91

H.J.R. 87 – Reps. Gipson, Townsend,
Flowers, McKee, Hooper,
Sanderford and
Murphree

HOUSE JOINT RESOLUTION

COMMENDING MICHAEL DEBELLIS ON HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, it is with gratitude and appreciation that Michael DeBellis is recognized for his professional contributions as Commissioner of the Alabama Insurance Department, and it is appropriate at this time to extend special public recognition to him for his dedicated service and exemplary leadership; and

WHEREAS, a resident of Greenville, Alabama, Mr. DeBellis began employment with the Department of Insurance on May 23, 1973, and was appointed commissioner by Governor George C. Wallace on January 1, 1986, serving until January 12, 1987; and

WHEREAS, making a lasting impression on those individuals with whom he has been associated, Mr. DeBellis was later appointed Acting Commissioner by Governor Fob James, Jr., on January 16, 1995, ultimately assuming the office of commissioner on February 1, 1996, where he served with professionalism until his retirement on January 31, 1998; and

WHEREAS, Mr. DeBellis, who will celebrate his 70th birthday on January 31, 1998, is married to his loving and supportive wife, Sue; and they are the proud parents of a daughter, Susan; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Michael DeBellis is indeed commended as an exemplar of extraordinary leadership ability and significant achievement with the Alabama Insurance Department and, by copy of this resolution, extended sincere best wishes for a gratifying retirement.

Approved February 9, 1998

Time: 8:58 A.M.

Act No. 98-92

H.J.R. 92 – Rep. Hogan

HOUSE JOINT RESOLUTION

COMMENDING MRS. MYRTLE EDGEWORTH HARDING
ON HER 105TH BIRTHDAY.

WHEREAS, Mrs. Myrtle Edgeworth Harding of Lamar County celebrated her 105th birthday on December 31, 1997, and upon this auspicious occasion, she is deserving of special recognition and heartiest congratulations by the citizens of the state; and

WHEREAS, Mrs. Harding, a Baptist for more than 90 years, continues to remain vitally interested in the affairs of her church, Mount Vernon Baptist Church, and puts her faith in action by witnessing to others; and

WHEREAS, she has provided tender love and support to numerous school teachers during her lifetime, and gives fascinating glimpses of seeing the first automobile in Cullman, Alabama; and

WHEREAS, it is a well-known fact that some people improve with age and, ranking high among those at age 105 is Myrtle Edgeworth Harding, who remains active and enjoys sharing her marvelous cooking recipes with family and friends; and

WHEREAS, married to her loving husband, the late Charles Harding, she is the proud mother of Viva Abbott, Tisha Boyle, and Doyle Harding (deceased); devoted grandmother to Bruce Abbott, Kim Hammond, Myra Crockett, and Dennis Harding; and six great grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,
BOTH HOUSES THEREOF CONCURRING, That Mrs. Myrtle Edgeworth Harding, who has provided much love and dedication to her family and friends, is hereby honored on her 105th birthday and, by copy of this resolution, extended sincere best wishes for good health and happiness.

Approved February 9, 1998

Time: 8:59 A.M.

Act No. 98-93

H.J.R. 96 – Reps. Hall (A), Sanderford, Allen,
Baker, Bandy, Black (L),
Black (M), Box, Boyd, Burke,
Buskey, Carns, Carothers,
Carter, Clark (J), Clark (W),

Clouse, Collins, Crigler, Curry,
 Dean, Dolbare, Drake, Dukes,
 Flowers, Ford, Ford (J), Fuller,
 Gaines, Galliher, Gaston,
 Gipson, Graham, Guin, Hall (L),
 Hamilton, Hammett, Haney,
 Hawk, Hawkins, Hayden, Hill,
 Hilliard, Hinshaw, Hogan,
 Holmes, Hooper, Houston,
 Jackson, Johnson (E),
 Johnson (R), Jorgensen,
 Kennedy, Knight (A), Knight (J),
 Laird, Layson, Leison, Lindsey,
 Maull, McAdory, McClammy,
 McDaniel, McKee, McMillan,
 Melton, Millican, Minnifield,
 Mitchell, Moore, Morrison,
 Morrow, Morton, Murphree,
 Newton (C), Newton (D), Page,
 Papucci, Parker (P), Parker (T),
 Payne, Penry, Perdue, Pringle,
 Robinson, Rogers (J), Rogers (M),
 Sanderson, Seibenhener, Sims,
 Smith, Spratt, Starkey,
 Thomas (D), Thomas (J),
 Townsend, Turner, Turnham,
 Vance, Venable, Warren, White,
 Willis and Wren

HOUSE JOINT RESOLUTION

COMMENDING CRAIG BUTTS AND WISHING HIM WELL
 IN THE 1998 WINSTON CUP DAYTONA 500.

WHEREAS, we note with great pride that Alabama's own Craig Butts will be competing in the February 8, 1998, running of the Winston Cup Daytona 500; and

WHEREAS, in modern stock car racing, the Daytona 500 is perhaps the most challenging NASCAR course in the country, testing the skill, strength, and endurance of its drivers and crews; and

WHEREAS, the son of Jimmy Butts, Director of the Alabama Department of Transportation, Craig Butts is one of the most talented and competitive drivers in the nation today; and

WHEREAS, NASCAR racing is one of the most popular spectator sports in the country, and especially in Alabama, which is the home of the world-famous Talladega race track; and

WHEREAS, following in the rich tradition of legendary Alabama racing professionals, Craig Butts will no doubt make his mark in NASCAR history; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Craig Butts on his success in NASCAR racing, and by copy of this resolution wish him continued success in the 1998 Winston Cup Daytona 500.

Approved February 9, 1998

Time: 9:00 A.M.

Act No. 98-94

S.J.R. 44 – Senator Langford

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF OSBORNE C. CHAMBLISS.

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of Osborne C. Chambliss on January 30, 1998; and

WHEREAS, Mr. Chambliss, who served his country with patriotism as a distinguished World War II veteran, exemplified true Christian principles as a faithful member of Old Ship A. M. E. Zion Church and Dexter Avenue King Memorial Baptist Church; and

WHEREAS, he served with distinction as an employee of the United States Postal Service for 30 years before his retirement in 1977, and his integrity and concern for the people of his community proved an invaluable asset through his many civic affiliations as Grand Sword Bearer of the Most Worshipful Prince Hall Grand Lodge Jurisdiction of Alabama, Prince Hall Consistory #19, and as secretary of Grand Lodge District #8 in Montgomery, Alabama; and

WHEREAS, he further provided unselfish service and progressive attitudes as a former Worshipful Master of W. T. Woods Lodge #842 F. & A. M., Commanding Chief of Prince Hall Consistory #19, Potentate of Shaaban Temple #103, and as deputy for the State of Alabama Shrine; and

WHEREAS, Mr. Chambliss, who made exemplary contributions as a 33 degree Mason and poll worker at Alabama State University in Precinct 4-C, also volunteered countless hours and an humble desire to serve with the highly respected Senior Citizen Program for more than 10 years; and

WHEREAS, celebrating 56 years of marriage to his loving wife, Claressa Watts Chambliss, on January 28, 1998, Mr. Osborne C.

Chambliss indeed earned the respect and admiration of those persons who had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF ALABAMA, That we hereby recognize with gratitude and praise the life of Mr. Chambliss, and do further direct that a copy of this resolution of highest esteem be presented to his wife, Claressa Chambliss, with our sincere condolence.

Approved February 12, 1998

Time: 3:30 P.M.

Act No. 98-95

S.J.R. 45 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING ROBERT LOCKE BOWDEN ON OBTAINING THE RANK OF EAGLE SCOUT.

WHEREAS, Robert Locke Bowden of Montgomery, Alabama, has successfully completed the requirements for the prestigious rank of Eagle Scout, scouting's highest honor, and will be recognized by a Court of Honor Ceremony on March 15, 1998; and

WHEREAS, Robert, better known as Rob, is a 9th grade student at Trinity Presbyterian School and is a member of numerous school activities including Key Club International and Fellowship of Christian Athletes, and is a basketball scorebook keeper; he also is an active and faithful member of his church youth group, Powerhouse; and

WHEREAS, Rob, who is the recipient of the prestigious God and Country Award, is a member of Order of the Arrow, served as Troop Guide, Troop Scribe, and Assistant Patrol Leader, and earned the coveted rank of Eagle Scout through countless hours of hard work; and

WHEREAS, serving as a Counselor in Training at Camp Tuckabatchee in 1997, Robert Locke Bowden has indeed developed leadership ability and earned the esteem of his community and fellow scouts and his scouting achievements reflect the highest ideals of American youth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Robert Locke Bowden is congratulated on his achievement of the rank of Eagle Scout and, by copy of this resolution, is extended sincere best wishes for future success.

Approved February 12, 1998

Time: 3:31 P.M.

Act No. 98-96

S.J.R. 46 – Senator Little

MOURNING THE DEATH OF JACK BRADFORD TATUM, SR., OF OPELIKA, ALABAMA.

WHEREAS, it is with deepest sorrow and regret that the Alabama Legislature records the death of Jack Bradford Tatum, Sr., of Opelika, Alabama, on October 10, 1997, at the age of 81 years; and

WHEREAS, a prominent member of the Opelika community, Jack Tatum was born July 20, 1916, in LaFayette, Alabama, and was a veteran of the United States Navy during World War II; and

WHEREAS, Mr. Tatum was one of the best known automobile dealers in the state, was a director of the Alabama Automobile Dealers Association, and served as its president from 1967-68; he was later involved in the asphalt industry; and

WHEREAS, over the years, Mr. Tatum contributed significantly toward improving the quality of life of the Lee County community and its citizens, and through his efforts played a key role in the city's growth and well-being, earning the admiration and respect of all with whom he was associated; and

WHEREAS, he provided distinguished civic leadership through his involvement in numerous local and area organizations and affairs including the Opelika Kiwanis Club, Opelika Chamber of Commerce, the Red Cross, the urban renewal committee, the downtown action committee, the downtown improvement committee, the citizens' advisory committee, the ways and appeals committee, the Agricultural Legislative Committee for the Alabama Cooperative Extension System, the Lee County Cattleman's Association, and the Alabama Horseman's Association; and was instrumental in bringing Opelika State Technical College to Opelika, in the organization and development of the Lee County Fair Association, and in the planning and presentation of Opelika's "100 Years of Progress" centennial, among other endeavors; and

WHEREAS, Mr. Tatum was also an active member of First United Methodist Church, where he served in such capacities as a member of the board of stewards, vice chairman of the official board, and superintendent of the Sunday School and Sunday School teacher; and served on the board of the Methodist Children's Home in Selma; and

WHEREAS, further, he was a member of Auburn's Board of Trustees, and served as president of the U.S.S. Alabama, and assisted in bringing the battleship and submarine to Mobile and the state; and

WHEREAS, Jack Tatum was indeed a man of true and noble character and distinguished accomplishment whose life stands as a testament for others who would strive for the best in their personal, professional, and community life; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are deeply saddened by the death of Jack Bradford Tatum, Sr. of Opelika, Alabama, and, by copy of this resolution, extend heartfelt sympathy and condolences to his children, Jack Bradford Tatum, Jr., and Dr. Julia Anne Tatum Hunter; two grandchildren, Lauren Lee Tatum and Jack Bradford Tatum, III; and other close family members and friends, whose sorrow we sincerely share.

Approved February 12, 1998

Time: 3:32 P.M.

Act No. 98-97

S.J.R. 47 – Senators Little and Dial

SENATE JOINT RESOLUTION

MOURNING THE DEATH AND COMMEMORATING THE LIFE OF JOHN BLUFORD STEVENSON OF RANDOLPH COUNTY, ALABAMA.

WHEREAS, it was with deepest sadness and regret that the Alabama Legislature noted the death of John B. Stevenson of Randolph County, Alabama, on December 15, 1997, at the age of 82 years; and

WHEREAS, John Bluford Stevenson worked at The Randolph Leader, the weekly paper founded by his father Olin Stevenson in 1892, for some 60 years; he was 22 when his father became ill and he abandoned graduate studies at the University of Alabama to return home to take over the paper, and it would be four and a half decades before he would announce his retirement as editor and publisher of the paper in the fall of 1982; he would, however, remain devoted to The Leader and continue to write his longtime column "Backward Glances," a history of Randolph County, until shortly before his death; and

WHEREAS, a native and lifelong resident of Randolph County, born January 24, 1915, to Olin Hampton and Elsie Sharp Stevenson, John Stevenson's roots ran deep in the life and history of Randolph County and, over the years, in all his endeavors, he remained steadfast in furtherance of all that was good for the community, its citizens, and society as a whole; and

WHEREAS, he further provided leadership and support to a number of professional, civic, and community organizations including the Roanoke Rotary Club, the Randolph Literacy Coalition, SIFAT, the American Red Cross, the George H. Lanier Council, and the Alabama Press Association, which honored the paper with its first place award in 1956; First United Methodist Church, where he served as a steward, historian, Sunday School teacher, and choir member for some 67 years, and the Boy Scouts, which honored him with the Silver Beaver Award, its most prestigious honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commemorate the life and service of the late John Bluford Stevenson of Randolph County, Alabama, and, by copy of this resolution, express our shared sorrow in his loss with his sons John W. Stevenson and David Stevenson; four grandchildren; and other close family members and friends, whose sorrow we sincerely share.

Approved February 12, 1998

Time: 3:33 P.M.

Act No. 98-98

H. 186 – Rep. Gipson

AN ACT

Relating to Autauga County; to provide that the judge of probate shall void any motor vehicle license when payment for the license is non-collectible.

Be It Enacted by the Legislature of Alabama:

Section 1. In Autauga County, when a personal check given for a motor vehicle license is found to be non-collectible for any reason, the judge of probate shall notify the license inspector who shall make a reasonable attempt to retrieve the motor vehicle license in question. In the event the motor vehicle license cannot be retrieved, the license inspector shall so state and the statement shall constitute authorization for the judge of probate to void the motor vehicle license. Upon voiding the motor vehicle license, the judge of probate shall receive credit for the cost of the motor vehicle license, sales and use tax, ad valorem tax, issuance fee, interest, and penalty for which payment was made on the non-collectible check. The appropriate state official shall mark the records pertaining to the void license accordingly and, upon inquiry by any law enforcement

agency, shall notify the agency that the license in question is a void license. All violations shall be prosecuted in accordance with current law.

Section 2. This act shall become effective immediately upon passage and approval by the Governor, or its upon otherwise becoming law.

Approved February 17, 1998

Time: 10:30 A.M.

Act No. 98-99

H. 320 – Rep. Hawkins

AN ACT

To authorize the City Council of the City of Hoover, Alabama, pursuant to Amendment No. 373 to the Constitution of Alabama of 1901, to increase the rate at which there is levied and collected by the said city, on all taxable property situated in the corporate limits of the said city, the ad valorem tax authorized by the provisions of the Constitution and laws of the State of Alabama and now levied at the rate of 20.5 mills on each dollar of assessed value, to a maximum rate, for any tax year of the county, which is equal to \$3.05 on each one hundred dollars (30.5 mills on each dollar) of assessed value (said increase of 10 mills on each dollar of assessed value to be used by the Hoover City Board of Education for public school purposes, as is 14 mills of the said 20.5 mill tax).

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, the following words and phrases shall have the following meanings:

(1) **SECTION 216.** Section 216 to the Constitution of Alabama of 1901.

(2) **AMENDMENT NO. 373.** That amendment to the Constitution that was proposed by Act 6, 1978 Second Special Session.

(3) **COUNCIL.** Hoover City Council.

(4) **CONSTITUTION.** The Constitution of Alabama of 1901.

(5) **CITY.** Hoover, Alabama.

(6) **SPECIAL TAX.** The ad valorem tax authorized in Section 216 and levied and collected on taxable property in the city.

Section 2. The city presently levies and collects the special tax at a rate of \$2.05 on each one hundred dollars (20.5 mills on each dollar) of assessed value pursuant to Section 216 and Amendment No. 373 and an election held in the city on May 8, 1990.

Pursuant to a resolution adopted by the city council in accordance with Amendment No. 373, the city proposes to increase the rate at which it may levy and collect the special tax to a maximum rate, for any tax year, which is equal to \$3.05 on each one hundred dollars (30.5 mills on each dollar) of assessed value.

Section 3. Pursuant to subsection (f) of Amendment No. 373 and a resolution adopted by the city council after a public hearing, the city council may increase the rate at which the city levies and collects the special tax to a maximum rate, for any tax year, which is equal to \$3.05 on each one hundred dollars (30.5 mills on each dollar) of assessed value (said increase of 10 mills on each dollar of assessed value to be used by the Hoover City Board of Education for public school purposes, as is 14 mills of the said 20.5 mill tax).

Section 4. The increase in the rate at which the special tax may be levied and collected pursuant to this act is subject to the approval of a majority of the qualified electors residing in the city who vote on the proposed increase at a special election called and held for such purpose pursuant to the provisions of subsection (f) of Amendment No. 373.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved February 17, 1998

Time: 10:31 A.M.

Act No. 98-100

H. 185 – Rep. Gipson

AN ACT

Relating to Autauga County; amending Section 4 of Act 96-859, 1996 Second Special Session (Acts 1996, p. 1667), relating to the collection and distribution of the special fire protection tax, to provide further for the distribution on a monthly basis.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act 96-859, 1996 Second Special Session (Acts 1996, p. 1667), is amended to read as follows:

“Section 4. The Revenue Commissioner of Autauga County shall assess the tax herein provided for and shall collect the tax in the same manner and method that other ad valorem taxes are collected. The proceeds of the tax shall be paid into a special county fund. Within thirty days after payment into the special fund, the

county commission shall pay the funds to the Autauga Firefighters' Association. The Autauga Firefighters' Association shall distribute the funds as follows:

The Autauga Firefighters' Association shall receive two thousand dollars (\$2,000) of the funds and the remainder of the funds shall be divided among the eligible volunteer fire departments as determined annually by the Autauga Firefighters' Association."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved February 17, 1998

Time: 10:32 A.M.

Act No. 98-101

H. 164 – Reps. Payne, Morton,
Townsend and Carns

AN ACT

To amend Sections 26-10A-4, 26-10A-5, 26-10A-6, 26-10A-7, 26-10A-11, and 26-10A-12, Code of Alabama 1975; to provide for the adoption of an adult who is disabled or mentally retarded.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 26-10A-4, 26-10A-5, 26-10A-6, 26-10A-7, 26-10A-11, and 26-10A-12, Code of Alabama 1975, are amended to read as follows:

Section 2.

"§26-10A-4.

"All petitions may be filed in the probate court in the county in which:

"(1) The minor or adult resides or has a legal residence;

"(2) A petitioner resides, or is in military service; or

"(3) An office of any agency or institution operating under the laws of this state having guardianship or custody of a minor or an adult.

"§26-10A-5.

"(a) Any adult person or husband and wife jointly who are adults may petition the court to adopt a minor.

"(1) No rule or regulation of the Department of Human Resources shall prevent an adoption by a person solely because the person is employed outside the home, provided however, the Department of

Human Resources may exercise sound discretion in requiring the person to remain in the home with a minor for a reasonable period of time when a particular minor requires the presence of that person to ensure his or her adjustment. Provided, however, the reasonable period of time shall not exceed 60 consecutive calendar days.

“(2) No rule or regulation of the Department of Human Resources or any agency shall prevent an adoption by a single person solely because such person is single or shall prevent an adoption solely because such person is of a certain age.

“(3) Provided however, in cases, where one who purports to be the biological father marries the biological mother, on petition of the parties, the court shall order paternity tests to determine the true biological father. If the court determines by substantial evidence that the biological father is the man married to the biological mother, then the biological father shall be allowed to adopt the child without the consent of the man who was married to the biological mother at the time of the conception or birth of the child, or both, when the court finds the adoption to be in the best interest of the child.

“(b) Any adult may petition the court to adopt another adult as provided in this chapter.

“§26-10A-6.

“The following persons may be adopted:

“(1) A minor.

“(2) An adult under any one of the following conditions:

“a. He or she is totally and permanently disabled.

“b. He or she is determined to be mentally retarded.

“§26-10A-7.

“(a) Consent to the petitioner’s adoption or relinquishment for adoption to the Department of Human Resources or a licensed child placing agency shall be required of the following:

“(1) The adoptee, if 14 years of age or older, except where the court finds that the adoptee does not have the mental capacity to give consent;

“(2) The adoptee’s mother;

“(3) The adoptee’s presumed father, regardless of paternity, if:

“a. He and the adoptee’s mother are or have been married to each other and the adoptee was born during the marriage, or within 300 days after the marriage was terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation was entered by a court; or

"b. Before the adoptee's birth, he and the adoptee's mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and,

"1. If the attempted marriage could be declared invalid only by a court, the adoptee was born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration or invalidity, or divorce; or

"2. If the attempted marriage is invalid without a court order, the adoptee was born within 300 days after the termination of cohabitation; or

"c. After the adoptee's birth, he and the adoptee's mother have married, or attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

"1. With his knowledge or consent, he was named as the adoptee's father on the adoptee's birth certificate; or

"2. He is obligated to support the adoptee pursuant to a written voluntary promise or agreement or by court order; or

"d. He received the adoptee into his home and openly held out the adoptee as his own child;

"(4) The agency to which the adoptee has been relinquished or which holds permanent custody and which has placed the adoptee for adoption, except that the court may grant the adoption without the consent of the agency if the adoption is in the best interests of the adoptee and there is a finding that the agency has unreasonably withheld its consent: and

"(5) The putative father if made known by the mother or is otherwise made known to the court provided he responds within 30 days to the notice he receives under Section 26-10A-17(a) (10).

"(b) A petition to adopt an adult may be granted only if written consent to adopt has been executed by the adult seeking to adopt and his or her spouse or by the guardian or conservator of the adult sought to be adopted pursuant to the requirements of Sections 26-10A-6 and 26-10A-11.

"§26-10A-11.

"(a) A consent or relinquishment shall be in writing, signed by the person consenting or relinquishing, and shall state the following:

"(1) The date, place, and time of execution.

"(2) The date of birth or if prior to birth expected date of birth of the adoptee and any names by which the adoptee has been known.

“(3) The relationship of the person consenting or relinquishing to the adoptee.

“(4) The name of each petitioner, unless (i) the document is relinquishment of the adoptee to an agency, or (ii) the consent contains a statement that the person executing the consent knows that he or she has a right to know the identity of each petitioner but voluntarily waives this right.

“(5) That the person executing the document is voluntarily and unequivocally consenting to the adoption of the named adoptee.

“(6) That by signing the document and subsequent court order to ratify the consent, the person executing the document understands that he or she will forfeit all rights and obligations; that he or she understands the consent or relinquishment and executes it freely and voluntarily.

“(7) That the person executing the document understands that the consent may be irrevocable, and should not execute it if he or she needs or desires psychological or legal advice, guidance, or counseling.

“(8) The address of the court in which the petition for adoption has been or will be filed, if known, and if not known, the name and address of the agency, the petitioners or their attorney on whom notice of the withdrawal of consent may be served.

“(9) In the case of relinquishment, the name and address of the agency to which the adoptee has been relinquished.

“(10) That the person executing the same has received or been offered a copy of the consent or relinquishment.

“(11) That the person executing a relinquishment waives further notice of the adoption proceeding.

“(12) That the person executing a consent waives further notice of the adoption proceedings, unless there is a contest or appeal of the adoption proceeding.

“(b) When the person sought to be adopted is an adult, only the sworn, written consent of the adult person sought to be adopted shall be required and no order of reference or any home studies need be issued. If the adult person to be adopted has been adjudicated incompetent, the written consent of the adult person’s guardian or conservator shall be required. If the adult person is without a spouse, guardian, or conservator and the court has reason to believe that the adult person is incompetent to give consent, the court shall appoint a guardian ad litem who shall investigate the adult person’s circumstances and that guardian ad litem shall give or withhold consent. The guardian ad litem shall file a written report stating the basis for

the decision and the court shall afford a hearing to all parties to present evidence as to the best interest of the adult person, and if the court determines upon clear and convincing evidence that the decision to withhold consent by the guardian ad litem is arbitrary and is not in the best interests of the incompetent adult person, it may proceed to make any other orders it deems necessary for the adult person's welfare, including granting the petition for adoption.

“§26-10A-12.

“(a) A consent of the natural mother taken prior to the birth of a child shall be signed or confirmed before a judge of probate. At the time of taking the consent the judge shall explain to the consenting parent the legal effect of signing the document and the time limits and procedures for withdrawal of the consent and shall provide the parent with a form for withdrawing the consent in accordance with the requirements of Sections 26-10A-13 and 26-10A-14.

“(b) All other pre-birth or post-birth consents or relinquishments shall be signed or confirmed before:

“(1) A judge or clerk of any court which has jurisdiction over adoption proceedings, or a public officer appointed by such judge for the purpose of taking consents; or

“(2) A person appointed to take consents who is appointed by any agency which is authorized to conduct investigations or home studies provided by Section 26-10A-19, or, if the consent is taken out of state, by a person appointed to take consents by any agency which is authorized by that state's law to conduct investigations and home studies for adoptions; or

“(3) A notary public.

“(c) Except as otherwise provided in subsection (d), the form for the consent or relinquishment or the withdrawal of the consent or relinquishment shall state in substantially the same form as follows: “CONSENT OR RELINQUISHMENT OF MINOR FOR ADOPTION THE STATE OF ALABAMA) _____ COUNTY) KNOW ALL MEN BY THESE PRESENT, that:

“1 . I, _____ (name of person consenting or relinquishing) the _____ of (parents, legal guardian, agency)(a) a minor _____ (state any names by which the minor has been known) born _____, 19____. (or) (b) an unborn child whose expected date of birth is _____, do hereby: (a) consent to the adoption of the said minor by _____ name of petitioners, unless identity waived) (or) (b) relinquish the said minor for the purpose of adoption to _____

(name and address of agency) in order that said minor may have all the privileges which may be accorded to (him) (her) by the laws of Alabama upon (his) (her) legal adoption;

"2. I am executing this document voluntarily and unequivocally thereby [consenting to the adoption of] [relinquishing] said minor;

"3. I understand that by signing this document and the subsequent court order to ratify the consent, I will forfeit all rights and obligations and that I understand the [consent to the adoption] [relinquishment] and execute it freely and voluntarily;

"4. I understand that the [consent to the adoption] [relinquishment] may be irrevocable, and I should not execute it if I need or desire psychological or legal advice, guidance or counseling;

"5. I have received or been offered a copy of this document;

"6. I waive the right to know the identity of each petitioner who petitions to adopt the said minor child;

"7. [I waive further notice of the adoption proceedings by the execution of this relinquishment to the named agency]; (or) [I waive further notice of the adoption proceedings by the execution of this consent, unless there is a contest or appeal of the adoption proceedings];

"8. I understand that notice of withdrawal of [consent] [relinquishment] must be mailed to [_____,
(county where consent or petition is filed if known) Probate Court at the following address _____] or
[_____] (name and address of agency with whom document is filed or the _____]
_____]

petitioners or their attorney if county where petition is filed is unknown) and that such withdrawal must be mailed within five days after the birth of said minor or the execution of this document whichever comes last;

"9. I do hereby request that the judge of probate make all such orders and decrees as may be necessary or proper to legally effectuate said adoption. Given under my hand at _____
o'clock, _____ day of _____, 19 __, at
_____ (address of filing)

_____, (SEAL) Affiant's
Signature "I, _____, sign my name to this instrument this _____ day
of _____, 19 __, and being first duly sworn, do hereby declare to the undersigned authority that I execute it as my

free and voluntary act for the purposes therein expressed, and that I am _____ years of age or older, of sound mind, and under no constraint or undue influence."

_____(SEAL) Affiant's
Signature STATE OF ALABAMA) COUNTY OF _____
Subscribed, sworn to and acknowledged before me by _____,
this _____ day of _____, 19 ____.

SEAL (Signed) _____
_____(Official Capacity
of Officer) I acknowledge receipt of two copies of this document.
_____(SEAL)

Date
I _____, on this _____ day affiant
of _____, 19 ___, at _____ a.m./p.m.
(time of day) in the presence of the two witnesses whose signatures
and addresses are subscribed below, hereby withdraw the adoption
[consent] [relinquishment] previously signed by me.

Witness Affiant's
Signature _____ Address _____
Witness _____ Address _____

"(d) The form for the consent or relinquishment or the withdrawal of consent or relinquishment for an adult, adopted or sought to be adopted, shall be developed by the Administrative Office of Courts."

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved February 17, 1998

Time: 10:33 A.M.

Act No. 98-102

S. 129 – Senator Little

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Auburn in Lee County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Auburn in Lee County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION
26, TOWNSHIP 19 NORTH, RANGE 25 EAST, AUBURN, LEE

COUNTY, ALABAMA, THENCE SOUTH 89°41' WEST, 2545.1 FEET TO A CORNER AND POINT OF BEGINNING OF THE PROPERTY HEREIN TO BE DESCRIBED: FROM THIS STARTING POINT, THENCE CONTINUE SOUTH 89° 41' WEST 2229.79 FEET TO A POINT FOR A CORNER; THENCE NORTH 00°18' WEST, 1489.5 FEET TO A POINT LOCATED ON THE SOUTH MARGIN OF THE CSX (FORMERLY WESTERN RAILROAD OF ALABAMA); THENCE NORTH 81°53' EAST ALONG THE SOUTHERLY MARGIN OF SAID RIGHT-OF-WAY FOR A DISTANCE OF 529.9 FEET; THENCE ALONG A CURVE TO THE LEFT ALONG A CHORD BEARING OF NORTH 74°49' EAST FOR A DISTANCE OF 965.6 FEET TO A POINT FOR A CORNER; THENCE SOUTH 01°28' EAST, 708.9 FEET TO A POINT FOR A CORNER; THENCE SOUTH 89°57' EAST, 806.5 FEET TO A POINT FOR A CORNER; THENCE SOUTH 00°19' EAST, 1095.7 FEET TO THE STARTING POINT.

Section 2. In accordance with Section 11-42-6 (b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Auburn is on file in the office of the Judge of Probate in Lee County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved February 17, 1998

Time: 10:34 A.M.

Act No. 98-103

H.J.R. 91 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

NAMING THE WALTER OWENS BRIDGE IN BIBB COUNTY.

WHEREAS, this legislative body notes with sincere admiration and immense appreciation the civic and public contributions of Mr. Walter Owens to the people of Bibb County and the residents of Alabama; and

WHEREAS, Mr. Owens, who diligently served in the Alabama House of Representatives from 1966 to 1983, and ably represented his constituents in the Alabama Senate from 1990 to 1994, holds the notable distinction of being the only person to ever represent Bibb County in both chambers; and

WHEREAS, Representative Owens chaired the House Ways and Means Committee from 1979 to 1983, an enormous time-consuming

responsibility which may only be truly appreciated by those connected with the Legislature, and during this tenure all agree Mr. Chairman wisely and prudently administered the fiscal policies of our state; and

WHEREAS, throughout his respected legislative service, Mr Owens was a vocal advocate for improving the state highway system and a strong supporter of the Department of Transportation; moreover, we note that Senator Owens was instrumental in seeing the finalization of the four-laning of a portion of Highway 82 in Bibb and Tuscaloosa Counties, a project which has afforded important economic opportunities to this vibrant area and extended greater highway safety and convenience to our citizens driving on this important connector between West Alabama and the State Capital, and

WHEREAS, this legislative body, with fondness and sincere gratitude, declares it is most appropriate to recognize in a continuing and enduring fashion the service of Mr. Walter Owens to the citizens of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the newly constructed bridge over the Cahaba River on Highway 82 in Bibb County is designated the "Walter Owens Bridge." Appropriate authorities are encouraged to erect and maintain signs and markers specifying this designation of honor.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to the Department of Transportation and to Senator Owens, so that this meritorious designation is known.

Approved February 17, 1998

Time: 10:35 A.M.

Act No. 98-104

H.J.R. 112 – Reps. Robinson and Hall (A)

HOUSE JOINT RESOLUTION

URGING THE FEDERAL ENERGY REGULATING COMMISSION TO REAFFIRM ITS DECISION TO GRANT INTER-STATE NATURAL GAS PIPELINE EASEMENT.

WHEREAS, The Federal Energy Regulatory Commission (FERC) is considering the granting of a Certificate of Public Convenience and Necessity to United States Gypsum (USG) Pipeline Company; and

WHEREAS, the State of Tennessee has sought a stay order of the FERC in opposition to the granting of the certificate; and

WHEREAS, if the FERC delays its decision and grants a rehearing on this issue, approximately 400 proposed new jobs in Bridgeport, Alabama will be jeopardized due to the delay of a \$110,000,000 wallboard plant currently under construction; and

WHEREAS, United States Gypsum Company will not be able to operate its proposed new Bridgeport Plant unless it receives an adequate supply of Natural gas that is contingent on the issuance of the certificate by the FERC; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA BOTH HOUSES THEREOF CONCURRING, That we hereby urge the Federal Energy Regulatory Commission to Promptly Reaffirm Its Decision to Grant a Certificate of Public Convenience and Necessity to United States Gypsum Pipeline Company, in order to assure the completion of construction of the United States Gypsum Company's New wallboard plant in Bridgeport, Alabama.

RESOLVED FURTHER, That a copy of this resolution be provided to the FERC for their careful consideration of this urgent request.

Approved February 17, 1998

Time: 10:36 A.M.

Act No. 98-105

H. 77 – Reps. Black (M) and Rogers (M)

AN ACT

Authorizing a court to enter a decree of legal separation; providing for the modification or dissolution of the decree; providing for the effects of the decree in regard to certain property interests and a subsequent divorce decree; requiring the best interest of the child standard in certain instances; providing for the levying of court costs, repealing Sections 30-2-30 and 30-2-31 of the Code of Alabama 1975, regarding divorce from bed and board; and providing for a prospective effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) The court shall enter a decree of legal separation if all of the following requirements are satisfied:

(1) The court determines that the jurisdictional requirements for the dissolution of a marriage have been met.

(2) The court determines the marriage is irretrievably broken or there exists a complete incompatibility of temperament or one or both of the parties desires to live separate and apart.

(3) To the extent that it has jurisdiction to do so, the court has considered, approved, or provided for child custody, and has entered an order for child support in compliance with Rule 32 of the Alabama Rules of Judicial Administration.

(b) A legal separation is a court determination of the rights and responsibilities of a husband and wife arising out of the marital relationship. A decree of legal separation does not terminate the marital status of the parties.

(c) If a party files a complaint for a decree of legal separation rather than a decree of dissolution of marriage, the court may grant the legal separation. The terms of a legal separation can be modified or dissolved only by written consent of both parties and ratification by the court or by court order upon proof of a material change of circumstances. A proceeding or judgment for legal separation shall not bar either party from later instituting an action for dissolution of the marriage.

(d) The court shall order that the terms of the legal separation relating to alimony or a property settlement be incorporated into a final divorce decree only if agreed to by the parties. Otherwise, the court may consider, but is not bound by, the provisions of the legal separation relating to alimony or a property settlement upon a final dissolution of the marriage.

(e) If either party to a legal separation later institutes an action for dissolution of the marriage, the best interest of the child standard shall apply to the determination of child custody.

(f) Upon written consent by both parties, after entry of a decree of legal separation, all of the following provisions shall apply:

(1) The earnings or accumulations, including the retirement benefits, of each party received after the entry of the decree of legal separation are the separate property of the party acquiring the earnings or accumulations, and shall not be considered by the court in subsequent divorce action.

(2) A spouse may convey his or her real estate without the signature or consent of the other spouse.

(3) Each spouse may waive all rights to inheritance from the other spouse pursuant to Section 43-8-72, Code of Alabama 1975.

(g) Court cost for a legal separation may be assessed as if a dissolution of the marriage was requested and may be taxed by the court accordingly.

Section 2. Sections 30-2-30 and 30-2-31, Code of Alabama 1975, are repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall take effect on January 1, 1999.

Approved February 19, 1998

Time: 1:45 P.M.

Act No. 98-106 H. 412 – Reps. Black (M), Starkey, Hamilton,
Drake, Robinson, Morrow
and Letson

AN ACT

To amend Section 40-14-41, Code of Alabama 1975, as amended by Act 97-914, 1997 First Special Session, relating to corporate franchise taxes, to provide a corporate franchise tax deduction to purchasers of certain existing manufacturing facilities with a minimum of 1,000 employees in Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-14-41, Code of Alabama 1975, as amended by Act 97-914, 1997 First Special Session, is amended to read as follows:

“§40-14-41.

“(a) Amount of levy. Every corporation organized under the laws of any other state, nation, or territory and doing business in this state, except strictly benevolent, educational, or religious corporations, shall pay annually to the state an annual franchise tax of three dollars (\$3) on each one thousand dollars (\$1,000) of the actual amount of its capital employed in this state. Corporations which have qualified to do business in this state shall for the purpose of this title prima facie be held to be doing business in Alabama. However, in no event shall the amount paid by any corporation for annual franchise tax be less than the sum of twenty-five dollars (\$25).

“(b) Definition of capital. The total capital of such foreign corporation, herein referred to as the “taxpayer,” shall equal the aggregate net amount of the following items determined in accordance with Generally Accepted Accounting Principles appropriate in the particular case, as promulgated by the Financial Accounting Standards Board or a similar or successor agency or board, unless otherwise defined in this article:

“(1) The outstanding capital stock and any additional paid-in capital, whether positive or negative, but excluding the taxpayer’s cost of its treasury stock.

"(2) Retained earnings, whether positive or negative, which shall include any amounts designated for the payment of dividends until the amounts are definitely and irrevocably placed to the credit of stockholders subject to withdrawal on demand.

"(3) The amount of bonds, notes, debentures, or other evidences of indebtedness maturing and payable more than one year after the first day of the franchise tax year, but not including deposit liabilities of banks and other financial institutions as defined by state or federal law.

"(4) The amount of bonds, notes, debentures, or other evidences of indebtedness, but not including deposit liabilities of banks and other financial institutions as defined by state or federal law, maturing and payable at the time to: (i) any individual stockholder owning directly or indirectly 10 percent or more of the outstanding capital stock of the taxpayer, or (ii) another corporation owning more than 50 percent of the outstanding capital stock of the taxpayer, or (iii) another corporation owning more than 50 percent of the outstanding capital stock of which is owned by the taxpayer, unless the other corporation referred to in clause (ii) or (iii) is also required to pay a franchise tax to the State of Alabama.

"(5) The amount reasonably required to adjust the depreciable or amortizable property accounts for any rapid, excessive, or unreasonable depreciation or amortization charges, so as to restore the depreciable or amortizable property accounts, for franchise tax purposes, to original cost less depreciation or amortization computed on the basis of the useful life of the property to the taxpayer.

"(c) Determination of capital employed in state. The actual amount of capital employed by the taxpayer in this state shall then be determined by apportioning the total capital of the taxpayer, as defined above, to Alabama in accordance with regulations promulgated by the Department of Revenue appropriate in the particular case, except that if the apportionment formula prescribed by the regulations and otherwise applicable to the taxpayer would not fairly represent the actual amount of the capital of the taxpayer employed in this state, then the taxpayer may petition for or the department may require, if reasonable, any one of the following:

"(1) The exclusion of any one or more of the three standard factors plus the cost-of-manufacturing component;

"(2) The inclusion of one or more additional factors which fairly represents the taxpayer's actual amount of capital employed in this state; or

"(3) The employment of any other method, including, without limitation, the method commonly referred to as the summation

method, which effectuates an equitable determination of the actual amount of the taxpayer's capital employed in this state.

"However, in the case of organizations whose accounts and records are kept according to rules prescribed by a regulatory agency or instrumentality of the United States or by the Alabama Public Service Commission, or by a state insurance department, the actual amount of capital employed in this state as so determined shall in no event exceed the value of the sum of its tangible property located in this state and its intangible property employed in the conduct of its business in this state.

"(d) Exclusions and deductions. (1) There shall be excluded from the amount of capital as determined in subsection (b) of this section the investment by the taxpayer in the capital of other corporations organized under the laws of Alabama, or under the laws of any other state if such other corporations also pay a franchise tax to the State of Alabama, unless the taxpayer is a dealer in stocks or securities.

"(2) Except as provided in subdivision (3), in addition to any other applicable exclusions, in the case of any taxpayer, there shall be excluded from the amount of capital as determined in subsection (b), the investment by the taxpayer in the capital of any other corporation that does not pay a franchise tax to the State of Alabama if the taxpayer owns more than 50 percent of the outstanding capital stock of the other corporation, unless the other corporation is dormant and not regularly engaged in one or more business activities.

"(3) In addition to any other applicable exclusions, in the case of any bank or bank holding company, there shall be excluded from the amount of capital as determined in subsection (b) as subsection (b) provided prior to the enactment of Act 95-564, the investment by the bank or bank holding company in the capital of any other corporation that does not pay a franchise tax to the State of Alabama if the bank or bank holding company owns more than 50 percent of the outstanding capital stock of the other corporation, unless the other corporation is dormant and not regularly engaged in one or more business activities. A corporation shall not be deemed dormant and shall be considered regularly engaged in one or more business activities, if the corporation owns, directly or indirectly, more than 50 percent of the outstanding capital stock of another corporation regularly engaged in one or more business activities. A corporation shall be deemed to directly or indirectly own more than 50 percent of another corporation if both corporations would be part of a controlled group of corporations as defined in 26 U.S.C. Section 1563 if a 50 percent ownership requirement is applied in lieu of the 80 percent ownership requirement in 26 U.S.C. Section 1563.

“(4) There shall be deducted from the amount of capital employed in this state as determined in accordance with subsections (b) and (c) of this section, the following amounts:

“a. The aggregate amount of loans of money made by the taxpayer in this state and which shall be secured by existing mortgage or mortgages to it on real estate in this state and upon which mortgage or mortgages there shall have been paid the recording privilege tax provided by law.

“b. The amount invested by the taxpayer in bonds or other securities issued by the State of Alabama, or any county, municipality, or other political subdivision of the State of Alabama, or any public corporation organized under the laws of the State of Alabama, unless the corporation is a dealer in securities.

“c. The amount invested by the taxpayer in all devices, facilities, or structures, and all identifiable components or materials for use therein, acquired or constructed primarily for the control, reduction, or elimination of air or water pollution.

“d. The amount invested by the taxpayer in all real and tangible personal property, equipment, facilities, structures, and components including, but not limited to, all aircraft replacement parts, components, systems, supplies, and sundries affixed or used on an aircraft, and ground support equipment and vehicles used by or for the aircraft, when used by certified or licensed air carrier with a hub operation within this state, for use in conducting intrastate, interstate, or foreign commerce for transporting people or property by air. For the purpose of this paragraph, the words “hub operation within this state” shall be construed to have all of the following criteria:

“1. There originate from the location 15 or more flight departures and five or more different first-stop destinations five days per week for six or more months during the calendar year.

“2. Passengers or property, or both, are regularly exchanged at the location between flights of the same or a different certificated or licensed air carrier.

“e. The amount invested in a new manufacturing facility in this state by the taxpayer, which amount shall be limited to the investment in all real and tangible personal property, equipment, facilities, structures, components, and inventory on or after December 1, 1997, and during the period for 20 years thereafter, provided that the taxpayer has met the criteria in subparagraph 1. below, and, in addition, has met the criteria in either subparagraph 2. or subparagraph 3. below:

“1. The taxpayer must, not later than September 22, 1999, file with the Alabama Department of Revenue a statement of intent to claim the

deduction provided under this section. This statement of intent shall contain any information required by the Department of Revenue.

“2. During the period commencing with December 1, 1997, and ending on the date five years thereafter, the amount invested in a new manufacturing facility in this state by the taxpayer shall be at least one billion dollars (\$1,000,000,000) and the number of new employees at the new manufacturing facility in this state shall be at least 1,500; or

“3. During the period commencing with December 1, 1997, and ending on the date five years thereafter, the amount invested in a new manufacturing facility in this state by the taxpayer shall be at least three hundred fifty million dollars (\$350,000,000) and the number of new employees at the new manufacturing facility in this state shall be at least 2,000.

“No deduction shall be available under this paragraph e. until the criteria defined in subparagraph 1. above, and, in addition, either subparagraph 2. or subparagraph 3. above have been met. The deduction available under this paragraph e. shall only be available during those years within the 20 years after December 1, 1997, in which the taxpayer maintains the criteria defined in either subparagraph 2. or subparagraph 3. above.

“f. The amount invested by the taxpayer in the purchase of an existing manufacturing facility in this state, which amount shall be limited to the investment in all real and tangible personal property, equipment, facilities, structures, components, and inventory on or after January 1, 1998, and during the period for 20 years thereafter, provided that the taxpayer has met the criteria in subparagraphs 1., 2., and 3.

“1. The taxpayer must, within six months of the effective date of this amendatory act, file with the Alabama Department of Revenue a statement of intent to claim the deduction provided pursuant to this amendatory act. The statement of intent shall contain any information required by the department.

“2. At the time of purchase, the existing manufacturing facility must have at least 1,000 employees, which employment level must be maintained during the period 20 years after the date of acquisition by the taxpayer.

“3. At the time of purchase, the existing manufacturing facility must produce aluminum alloy can stock.”

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or upon its otherwise becoming law.

Approved February 19, 1998

Time: 2:05 P.M.

Act No. 98-107

H.J.R. 78 – Rep. Laird

HOUSE JOINT RESOLUTION

CREATING THE ALABAMA FORESTRY COMMISSION, VOLUNTEER FIRE DEPARTMENTS, AND THE RURAL COMMUNITY FIRE PROTECTION INSTITUTE JOINT PERMANENT LEGISLATIVE OVERSIGHT COMMITTEE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Forestry Commission, Volunteer Fire Departments, and the Rural Community Fire Protection Institute Joint Permanent Legislative Oversight Committee is created. The committee shall be composed of four members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee. Members shall serve until their successors are appointed. The committee shall study all facets of the working relationships between and among the Alabama Forestry Commission, volunteer fire departments, and the Rural Community Fire Protection Institute.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House of Representatives shall provide necessary clerical assistance for the work of the committee. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the 10th legislative day of each Regular Session. Each member of the committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the committee. Upon requisitions signed by the chair of the committee, these payments shall be paid out of any funds appropriated to the use of the Legislature by means of warrants drawn by the State Comptroller on the State Treasury. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance on other state business.

This Act became a law under Section 125 of the Constitution on February 20, 1998 without approval by the Governor.

Act No. 98-108

H. 381 – Rep. Millican

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected or appointed public officials in Winston County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed official of Winston County may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Any elected or appointed Winston County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Any elected or appointed official of Winston County holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed official" shall include any person appointed to serve the remaining term of an elected or appointed official, including the sheriff, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Winston County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House February 3, 1998

Passed the Senate February 24, 1998

Act No. 98-109

S.J.R. 50 – Senator Bedford

SENATE JOINT RESOLUTION

COMMENDING COACH BILL MOSS OF NORTHWEST-SHOALS COMMUNITY COLLEGE FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the outstanding career achievements of Coach Bill Moss of Northwest-Shoals Community College, Muscle Shoals, Alabama; and

WHEREAS, at the end of the current basketball season at Northwest, Coach Bill Moss will retire following 27 years of coaching on the prep and collegiate levels in a game he has grown to love; and

WHEREAS, over a career which spans almost three decades, Bill Moss has coached hundreds of young athletes and worked diligently to reshape the basketball programs at Section, Phil Campbell, Belgreen and, most recently at Northwest-Shoals since 1983; and

WHEREAS, most especially, he has served as an inestimable role model for the many young athletes under his tutelage and care, and through many positive lessons for successful living both on and off the field and throughout life, has had significant impact upon their lives, as evidenced by the number now serving in education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement, and his many contributions to the Northwest Shoals basketball program and the fine young athletes it has produced, we hereby most highly commend Coach Bill Moss, for whom a copy of this resolution of warmest personal regard and best wishes for the future shall be provided.

Approved February 26, 1998

Time: 2:30 P.M.

Act No. 98-110

S.J.R. 51 – Senator Windom

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF BETTY SPEED.

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of Betty Speed on December 10, 1997; and

WHEREAS, Ms. Speed, a highly effective president of three Republican Women's Clubs including Houston, Texas; Pickens County; and Tuscaloosa, Alabama; ably reflected the best in an interested citizen, and her integrity and concern were proven an invaluable asset for the people of the State of Alabama; and

WHEREAS, she spearheaded and designed the pen for the Alabama Republican Women's Club, introduced Reading is Fundamental (R. I. F.), as well as led a pilot project for R. I. F. in Pickens County, Alabama; and dedicated her great talents and abilities as public relations and associate hostess at the American Embassy in Paris, France; and

WHEREAS, contributing significantly in leadership positions as a delegate to the Republican National Convention and Federation of Republican Women Conventions, Ms. Speed also championed scores of other causes and offered insightful advice as a valued member of the State of Alabama Republican Executive Committee; and

WHEREAS, a woman of vision who always had the best interest of the Republican Party in mind, Ms. Speed was instrumental in stock donated to the Tuscaloosa County Republican Women's Club, and her trailblazing accomplishments were evident when she graciously opened her home for fund raising meetings; and

WHEREAS, Betty Speed was indeed an exemplar of extraordinary leadership ability and significant achievement and will long be remembered by those fortunate enough to have known her; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we give thanks unto God for the life of Betty Speed, and extend our sincere condolence to her family, for whom a copy of this resolution shall be presented.

Approved February 26, 1998

Time: 2:31 P.M.

Act No. 98-111

S.J.R. 52 – Senator Bedford

SENATE JOINT RESOLUTION

COMMENDING COACH BILL MOSS OF NORTHWEST-SHOALS COMMUNITY COLLEGE FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the outstanding career achievements of

Coach Bill Moss of Northwest-Shoals Community College, Phil Campbell, Alabama; and

WHEREAS, at the end of the current basketball season at Northwest, Coach Bill Moss will retire following 27 years of coaching on the prep and collegiate levels in a game he has grown to love; and

WHEREAS, over a career which spans almost three decades, Bill Moss has coached hundreds of young athletes and worked diligently to reshape the basketball programs at Section, Phil Campbell, Belgreen and, most recently at Northwest-Shoals since 1983; and

WHEREAS, most especially, he has served as an inestimable role model for the many young athletes under his tutelage and care, and through many positive lessons for successful living both on and off the field and throughout life, has had significant impact upon their lives, as evidenced by the number now serving in education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding professional achievement, and his many contributions to the Northwest Shoals basketball program and the fine young athletes it has produced, we hereby most highly commend Coach Bill Moss, for whom a copy of this resolution of warmest personal regard and best wishes for the future shall be provided.

Approved February 26, 1998

Time: 2:32 P.M.

Act No. 98-112

S.J.R. 53 – Senator Windom

SENATE JOINT RESOLUTION

COMMENDING MR. AND MRS. MILTON P. YEAGER, SR., ON THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are herein extended to Milton Yeager and the former Virginia Avis Seiple, who were honored by their devoted children and their spouses with a gala reception at St. Edmund's Parish Hall in Dauphin Island, Alabama, on December 27, 1997, for the celebration of their 50th Wedding Anniversary; and

WHEREAS, married on December 13, 1947, at Oakdale Methodist Church, Mr. and Mrs. Yeager are the loving parents of

three sons and daughters-in-law, Mickey and Nan Yeager, the Reverend Danny and Cheryl Yeager, and Barry and Ramona Yeager; a daughter and son-in-law, Charlotte and Louis Carson; and proud grandparents to 10 grandchildren; and

WHEREAS, believing that the value and character of life originate in the home with God being at the center, Mr. and Mrs. Yeager have indeed earned the respect of their family and friends for their generous spirit and great sensitivity to the needs of others, and they have provided a warm and loving home firmly grounded on unconditional love; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate Mr. and Mrs. Milton P. Yeager on their 50th Wedding Anniversary, commend them for achieving a long and happy marriage blessed with children and rich in friendships, and, by copy of this resolution, extend to them best wishes for happiness and good health in the future.

Approved February 26, 1998

Time: 2:33 P.M.

Act No. 98-113

S.J.R. 54 – Senator Windom

SENATE JOINT RESOLUTION

COMMENDING MR. AND MRS. CECIL OWEN TANNER ON THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are herein extended to Cecil Owen Tanner and the former Mae Jewel Brannan who were honored by their devoted children and grandchildren with a gala reception on the celebration of their 50th Wedding Anniversary; and

WHEREAS, joined in Holy matrimony at Wilmer Methodist Church on January 25, 1948, they are the loving parents of a son, Gordon Tanner; daughter, Cecile Haddock; and daughters and sons-in-law, Carol and Bill Barry; Marcia and Bill Korver, and Ruth and Duane Sheffield; and proud grandparents to seven grandchildren; and

WHEREAS, believing that the value and character of life originate in the home with God being at the center, Mr. and Mrs. Tanner have indeed earned the respect of their family and friends for their generous spirit and great sensitivity to the needs of others, and they have provided a warm and loving home firmly grounded on unconditional love; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate Mr. and Mrs. Cecil Owen Tanner on their 50th Wedding Anniversary; commend them for achieving a long and happy marriage blessed with children and rich in friendships; and, by copy of this resolution, extend to them best wishes for happiness and good health in the future.

Approved February 26, 1998

Time: 2:34 P.M.

Act No. 98-114

S.J.R. 57 – Senator Escott-Russell

SENATE JOINT RESOLUTION

COMMENDING MR. AND MRS. CECIL OWEN TANNER ON THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are herein extended to Cecil Owen Tanner and the former Mae Jewel Brannan who were honored by their devoted children and grandchildren with a gala reception on the celebration of their 50th Wedding Anniversary; and

WHEREAS, joined in Holy matrimony at Wilmer Methodist Church on January 25, 1948, they are the loving parents of a son, Gordon Tanner; daughter, Cecile Haddock; and daughters and sons-in-law, Carol and Bill Barry; Marcia and Bill Korver, and Ruth and Duane Sheffield; and proud grandparents to seven grandchildren; and

WHEREAS, believing that the value and character of life originate in the home with God being at the center, Mr. and Mrs. Tanner have indeed earned the respect of their family and friends for their generous spirit and great sensitivity to the needs of others, and they have provided a warm and loving home firmly grounded on unconditional love; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate Mr. and Mrs. Cecil Owen Tanner on their 50th Wedding Anniversary; commend them for achieving a long and happy marriage blessed with children and rich in friendships; and, by copy of this resolution, extend to them best wishes for happiness and good health in the future.

Approved February 26, 1998

Time: 2:35 P.M.

Act No. 98-115

S.J.R. 58 – Senators Escott-Russell
and Figures

SENATE JOINT RESOLUTION

URGING THE UNITED STATES POSTAL SERVICE CITIZEN'S STAMP ADVISORY COMMITTEE TO RECOMMEND THE ISSUANCE OF A U.S. POSTAGE STAMP HONORING MARY ELIZA MAHONEY, AMERICA'S FIRST AFRICAN AMERICAN PROFESSIONAL NURSE.

WHEREAS, Mary Eliza Mahoney, born in 1845 in Boston, Massachusetts, was the first African American professional nurse, graduating in 1879 from the New England Hospital for Women and Children; and

WHEREAS, Mary Eliza Mahoney had an amazing career in professional nursing spanning over 40 years that included practice in New Jersey, Massachusetts, Washington, D.C., and North Carolina; and

WHEREAS, in 1936, due to her unstinting work in the field of nursing, the National Association of Colored Graduate Nurses established the Mary Mahoney Award; and

WHEREAS, the Citizen's Stamp Advisory Committee of the United States Postal Service has been requested to recommend to the Postmaster General that a commemorative stamp be issued honoring Mary Mahoney, pursuant to House Concurrent Resolution 258 of the 1994 U.S. Congress; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join the U.S. Congress in urging the Citizen's Stamp Advisory Committee of the U.S. Postal Service to recommend to the U.S. Postmaster General the issuance of a commemorative stamp honoring Mary Eliza Mahoney.

RESOLVED FURTHER, That a copy of this resolution be sent to the committee and to the Postmaster General in support of our request for a Mary Mahoney stamp.

Approved February 26, 1998

Time: 2:36 P.M.

Act No. 98-116

S.J.R. 59 – Senator Little

SENATE JOINT RESOLUTION

COMMENDING THE LEDBETTER FAMILY AS RECIPIENTS OF THE 1997 FAMILY OF THE YEAR AWARD.

WHEREAS, the strength of our nation depends on the vitality of its families and the Ledbetter family of Dadeville, Alabama, consisting of Chuck and Kim Ledbetter and their children, Kira, Page, and Kelli, are deserving of our warm best wishes and heartiest congratulations as recipient of the 1997 Family of the Year Award presented at the Montgomery Museum of Fine Arts on November 16, 1997; and

WHEREAS, the Ledbetters, who have provided a warm and loving home firmly grounded on unconditional love to Kim's grandmother, Peggy Spacie, who has Alzheimer's disease, are humble servants of God and living testimonies of their Christian faith while working in all phases of church activities at First Baptist Church in Dadeville, Alabama; and

WHEREAS, Chuck Ledbetter is employed as an assistant football coach, seventh and eighth-grade basketball coach, and world history teacher at Horseshoe Bend School, where he is sponsor of Fellowship of Christian Athletes; he also is chairman of the deacons and president of the Baptist men's group at First Baptist Church; and

WHEREAS, Kim Ledbetter, who serves with her husband on the church youth ministry council and attends a Bible study fellowship with him, also ably serves as president of the Ethan Club, a community service organization; is a valued member of the Dadeville Area Chamber of Commerce; and is intensely involved as a volunteer with Sav-A-Life; and

WHEREAS, Kelli, age 8, Page, age 10, and Kira, age 12, of whom we are justly proud, are actively involved with their church mission groups, as well as piano and voice lessons; Kira also plays in the band and participates in the Christian Life Club at Dadeville High School; and

WHEREAS, the Ledbetter family has contributed immeasurably to the enrichment of the social, cultural, and economic lives of their community and have touched all who have known them by their loving care to their family and their genuine warmth as human beings; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate the Ledbetter family upon their selection as Family of the Year, and direct that a copy of this resolution be presented as evidence of our deep appreciation and warmest personal regards.

Approved February 26, 1998

Time: 2:37 P.M.

Act No. 98-117

S.J.R. 61 – Senator Bedford

SENATE JOINT RESOLUTION**MOURNING THE DEATH OF J. FRANK GUTHRIE.**

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of J. Frank Guthrie of Phil Campbell, Alabama, at the age of 87 years, on January 27, 1998; and

WHEREAS, as founder of Blue Star Ready Mix and Guthrie Oil, Mr. Guthrie successfully developed his career through dedication and commitment and always kept himself available and accessible to the people he served; and

WHEREAS, he also worked tirelessly and with devotion as a trustee of Northwest Junior College, and was a faithful member of Phil Campbell United Methodist Church where he exerted a profound influence on all those whose lives he touched; and

WHEREAS, left to cherish the memories of J. Frank Guthrie are his loving wife, Pearl L. Guthrie; sons and daughters-in-law, Robert M. and Freida Guthrie and Frank and Doris Guthrie; daughters and sons-in-law, Mary Katherine and Talmadge Balch, Carolyn and Phillip Vinson, and Sue and Rayburn Bishop; and fifteen grandchildren; nineteen great grandchildren; and two step-grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize with gratitude and praise the life of J. Frank Guthrie, and do further direct that a copy of this resolution be provided for his wife, Pearl Guthrie, with our sincere condolence.

Approved February 26, 1998

Time: 2:38 P.M.

Act No. 98-118

S.J.R. 62 – Senator Bedford

SENATE JOINT RESOLUTION**MOURNING THE DEATH OF ELDRED W. MYRICK OF RUSSELLVILLE, ALABAMA.**

WHEREAS, a source of deep sorrow to the Alabama Legislature is the lamentable death of Eldred W. Myrick on January 26, 1998, at the age of 73 years; and

WHEREAS, a lifelong resident of Franklin County, his good deeds earned for him the respect and admiration of countless individuals whose lives he touched through genuine care and concern; and

WHEREAS, the memory of Eldred W. Myrick will be cherished by his loving wife, Eloise Wright Myrick; son and daughter-in-law, Jimmy and Dorothy Myrick; brother, Eugene Myrick; sister, Lorene Roper; and other family members who are sorely bereft in their great and sorrowful loss; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express our deepest regret in the death of Mr. Myrick, and extend our most heartfelt sympathy to his bereaved family, for whom a copy of this resolution shall be provided with our sincere condolence.

Approved February 26, 1998

Time: 2:39 P.M.

Act No. 98-119

S.J.R. 63 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING TODD STRANGE UPON HIS SELECTION AS ALABAMA'S 1998 TIME MAGAZINE QUALITY DEALER.

WHEREAS, Todd Strange, President and CEO of Blount Strange Automobile Group in Montgomery, Alabama, has been selected as Alabama's 1998 Time Magazine Quality Dealer, the most prestigious honor in the retail vehicle business; and

WHEREAS, Mr. Strange was selected as a finalist for the national Time Magazine Quality Dealer Award at the National Automobile Dealers Association Convention in New Orleans, Louisiana, on January 31, 1998; and

WHEREAS, he has participated in numerous civic endeavors including the Montgomery Area Chamber of Commerce, Montgomery Area Committee of 100, and Kiwanis Club; and

WHEREAS, Mr. Strange has demonstrated his leadership through his service on the board of directors and executive committee of SouthTrust Bank, as chairman and member of the board of trustees of the Capital City Club, the University of Montevallo Board of Trustees, Leadership Alabama Board of Directors, and as president of the UAB Montgomery Internal Medicine Residency

Program; he currently serves as one of two directors of the ADAA's District 2; and

WHEREAS, contributing to the success of his industry as chairman of the National Cadillac Dealer Council, Mr. Strange has received numerous awards on behalf of his dealerships including Royal Motor Company's Chrysler Award of Excellence and the Chrysler Pentastar Award; and

WHEREAS, under his expert leadership, Cobb Pontiac Cadillac attained Master Dealer status from both Cadillac and Pontiac, and Blount Strange Ford Lincoln Mercury was voted Montgomery's Best Car Dealership in the Montgomery Advertiser's survey for 1996; and

WHEREAS, Mr. Strange provides unselfish service and progressive attitudes while serving on various government-related committees studying local transportation needs and education initiatives, as well as tort and civil justice reform; and

WHEREAS, Todd Strange is married to his loving wife, the former Linda Davis, and they are the proud parents of two daughters, Elizabeth Burt and Jennifer Arrington; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Todd Strange is hereby most highly commended for his extraordinary service to Montgomery County and upon his selection as Alabama's 1998 Time Magazine Quality Dealer.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Mr. Strange, whom we hold in highest personal regard, as an expression of tribute and esteem.

Approved February 26, 1998

Time: 2:40 P.M.

Act No. 98-120

H. 392 – Rep. Clark (J)

AN ACT

Relating to Barbour County; providing further for a one-stop tag purchase for the assessment and collection of ad valorem taxes and sales taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles; transferring certain duties and responsibilities of the revenue commissioner to the judge of probate; requiring an additional bond of the judge of probate; providing for renewal of licenses by mail; and providing for the deposit of fees and commissions in the general fund of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate of Barbour County shall perform all duties relative to the assessment and collection of taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles in Barbour County which the revenue commissioner is required under the law to perform. The revenue commissioner shall be relieved of all duties and responsibilities relative to the assessment and collection of taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles, and the judge of probate shall have all the duties and responsibilities relative to the assessment and collection of taxes and issuance of motor vehicle licenses and titles for motorized and non-motorized vehicles. For purposes of this act, the term "motor vehicle" shall mean the same as defined in Article 5, Chapter 12, Title 40, Code of Alabama 1975, as amended.

Section 2. Before entering upon the additional duties imposed by this act, the judge of probate shall execute an additional bond in a sum prescribed by a written recommendation to the judge of probate from the Examiners of Public Accounts, giving as surety a bonding company authorized to do business in this state. The bond shall be conditioned as other official bonds and shall be filed and recorded in the Office of the Clerk of the Circuit Court in Barbour County. A certified copy of the bond shall be furnished by the judge of probate to the State Comptroller. Premiums on the bond of the judge of probate shall be paid from the general fund of the county.

Section 3. The Barbour County Commission shall furnish suitable quarters or additional space if necessary for the efficient performance of the additional duties of the judge of probate and shall transfer all necessary forms, books, records, and supplies from the office of the revenue commissioner to the judge of probate as are pertinent to the transference of the duties and shall thereafter provide stationery, forms, and supplies as are furnished pursuant to law by the State Department of Finance, the State Comptroller, and the State Department of Revenue. The county commission shall provide clerks to the judge of probate for the proper and efficient performance of the duties of the office at the rate of compensation set by the county commission. The compensation of the clerks shall be paid out of the county general fund in the same manner as other county employees are paid.

Section 4. The judge of probate shall charge and collect the same fee that is prescribed in the general law for a like service when performed by the tax assessor, tax collector, revenue commissioner, or license commissioner as the case may be. All fees shall be the property of Barbour County and shall be paid into the general fund of the county.

Section 5. To prevent motor vehicles from escaping taxation and to provide for the more efficient assessment and collection of

taxes due on motor vehicles, no license shall be issued to operate a motor vehicle on the public highways of this state, nor shall any transfer be made by the judge of probate as provided under this act, until the ad valorem tax and the sales tax on the vehicle are paid in the county for the preceding year as evidenced by receipt of the judge of probate, if the motor vehicle belongs to a resident of Barbour County or is principally used or operated in Barbour County.

Section 6. (a) Every person, firm, or corporation residing in or owning a motor vehicle which is principally used in Barbour County who desires to operate a motor vehicle on the public highways of Alabama shall first be required to pay ad valorem taxes and sales taxes to the judge of probate. The judge of probate shall issue a certificate of assessment on a form prescribed by the State Department of Revenue, shall collect the tax as shown thereon, and shall make a duplicate of the tax receipt and keep the receipt on file in the probate office for one year after each audit. The license tag shall be evidence of the payment of the license and ad valorem taxes and sales taxes due under this act.

(b) Valuation for ad valorem assessment of motor vehicles shall be at the same rate and on the same basis as is provided in Article 5, Chapter 12, Title 40, Code of Alabama 1975, and all laws relating to the assessment on a quarterly basis are hereby incorporated in this act and made a part hereof.

(c) The judge of probate, in addition to assessing and collecting the ad valorem taxes and sales taxes due the state and county on motor vehicles, motor vehicle titles, and non-motorized vehicles, shall collect the ad valorem taxes and sales taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles due all municipalities in Barbour County and shall report and pay over the money collected for the municipalities at the same time and in the same manner as state and county taxes and licenses are reported and paid over by him or her. The judge of probate shall collect and deposit into the general fund of Barbour County five percent of the amount of municipal taxes collected for assessing and collecting the taxes and shall deduct that amount from the total amount collected before paying the city treasury. The judge of probate may not issue a license to operate a motor vehicle on the highways of the state until all ad valorem taxes and sales taxes due the state, county, and municipalities are paid for the preceding year as shown by the tax receipts.

Section 7. The State Comptroller, the State Department of Revenue, and the State Department of Finance shall furnish the judge of probate all books, records, and blanks now or hereafter required by law to be furnished to judges of probate, tax assessors, tax collectors, revenue commissioners, or license commissioners in connection with the performance of their duties in the issuance of

license plates and titles on motorized and non-motorized vehicles and the assessment and collection of ad valorem taxes and sales taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles.

Section 8. The judge of probate shall receive for the assessing and collecting of state and county ad valorem taxes and sales taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles the same fees charged and commissions fixed by law to be paid to tax assessors, tax collectors, revenue commissioners, or license commissioners for like services. All fees and commissions, including those charged for ad valorem taxes and sales taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles in all municipalities in Barbour County shall be paid into the general fund of the county.

Section 9. The judge of probate may mail to any person to whom a motor vehicle license has been previously issued an application for renewal of a license required to be returned prior to the expiration date of the license. The application for renewal may be in the form of a postcard and shall contain sufficient information to adequately identify and process the renewal. The signature of the licensee on the application and proper remittance shall constitute sufficient authority for the judge of probate to issue the license and return the license to the licensee by mail. The county commission may establish a fee to be entitled "Mail Order Fee" in an amount not to exceed three dollars (\$3) to pay the cost of this mailing procedure. The fee shall be collected by the judge of probate at the time of issuance and paid over to the general fund of the county as are other fees and commissions.

Section 10. Notwithstanding the foregoing, nothing in this act shall be construed to increase the taxes and fees of motor vehicles, motor vehicle titles, and non-motorized vehicles as prescribed by law.

Section 11. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved February 27, 1998

Time: 12:30 P.M.

Act No. 98-121

H. 393 – Rep. Clark (J)

AN ACT

Relating to Barbour County; authorizing the county coroner to appoint deputies.

Be It Enacted by the Legislature of Alabama:

Section 1. The coroner of Barbour County may appoint one or more deputies, as deemed necessary, who shall hold office at the

pleasure of the coroner and perform such duties, from time to time, as the coroner may direct.

Section 2. A deputy coroner shall take the oath of office required by Section 279 of the Constitution of Alabama of 1901, and shall receive the same fees for services performed in the place of the coroner that the coroner would receive in performing similar services, with the exception of any expense allowance now received by the coroner.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming law.

Approved February 27, 1998

Time: 12:31 P.M.

Act No. 98-122

S. 319 – Senator Bedford

AN ACT

Relating to Franklin County; to amend Section 1 of Act 86-308 of the 1986 Regular Session, to provide further for the distribution of funds accruing to the county or any municipality therein from the oil and gas privilege tax levied under Sections 40-20-1 to 40-20-13, inclusive, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 86-308, 1986 Regular Session (Acts 1986, p. 457), is amended to read as follows:

“Section 1. The proceeds of the oil and gas severance tax provided by Sections 40-20-1 to 40-20-13, inclusive, Code of Alabama 1975, which are distributed to the county general fund of Franklin County, or to the general fund of any municipality therein shall be distributed only one time in a four-year period or at any time when the proceeds equal ten thousand dollars (\$10,000) or more as follows:

“(a) Fifty percent (50%) of the money shall be distributed to the Franklin County Commission and expended at the discretion of the county commission.

“(b) Thirty percent (30%) of the money shall be distributed to the city and county boards of education on an average daily attendance basis using the State Department of Education’s Percentage Distribution Ratio for dividing funds between the Franklin County and Russellville City School Systems.

“(c) Five percent (5%) shall go to the county sheriff’s department for law enforcement purposes and for use in alcohol and drug abuse programs.

“(d) Three percent (3%) shall be distributed by the county commission to the municipal and volunteer fire departments for fire protection purposes.

“(e) Two percent (2%) shall be distributed by the county commission to the rescue squads and public libraries.

“(f) Ten percent (10%) shall be used for additional construction and expansion of a countywide water system, this is the desire of the county legislative delegation to have a countywide water system.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved March 3, 1998

Time: 10:15 A.M.

Act No. 98-123

H. 63 – Rep. Parker (P)

AN ACT

Relating to Morgan County; providing for an additional expense allowance for the License Commissioner.

Be It Enacted by the Legislature of Alabama:

Section 1. The License Commissioner of Morgan County shall be entitled to receive an additional expense allowance in the amount of five thousand dollars (\$5,000) per annum to be paid out of the county general fund monthly in equal amounts. This expense allowance shall be in addition to any and all other compensation, salary, and expense allowances provided for by law.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved March 3, 1998

Time: 10:16 A.M.

Act No. 98-124

H. 133 – Reps. Drake and Morrison

AN ACT

Relating to Cullman County; to further provide for the compensation of the judge of probate.

Be It Enacted by the Legislature of Alabama:

Section 1. Immediately upon the effective date of of this act, the salary of the Judge of Probate of Cullman County shall be

increased by the amount of three thousand dollars (\$3,000) per month. Upon receipt of the salary increase provided by this act, the judge of probate shall no longer receive the expense allowance in the same amount currently provided by law to the judge of probate.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 3, 1998

Time: 10:17 A.M.

Act No. 98-125

H. 213 – Reps. Jackson and Warren
AN ACT

Relating to Conecuh County; providing for the establishment of a consolidated and unified system for assessment and collection of taxes under the supervision of an elected county official designated as the county revenue commissioner; providing for the election, power, duties, term of office, and compensation of the official; abolishing the offices of tax assessor and tax collector; and providing that the substantive provisions of the act shall become effective on approval of the electors.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in Conecuh County.

Section 2. The purpose of this act is to conserve revenue and promote the public convenience in the county by consolidating the office of tax assessor and the office of tax collector into one county office designated as the office of county revenue commissioner.

Section 3. At the expiration of the current term of office of the tax assessor and the office of the tax collector of the county, or if a vacancy occurs in either office, then immediately upon the occurrence of the vacancy, the office of county revenue commissioner shall be established. If the office of county revenue commissioner is established upon the occurrence of a vacancy in either the office of tax assessor or the office of tax collector, the tax assessor or the tax collector, as the case may be, remaining in office shall be the county revenue commissioner for the remainder of the term of office for which he or she was elected. The county revenue commissioner shall be elected at the general election and every six years thereafter and shall serve for a term of office of six years.

Section 4. The county revenue commissioner shall perform all acts, duties, and functions required by law to be performed by the tax assessor and the tax collector of the county. The official acts of the employees of the county revenue commissioner shall have the same force and legal effect as if performed by the county revenue commissioner.

Section 5. Before entering upon the duties of office, the county revenue commissioner shall take the oath of office prescribed by Section 279 of the Constitution of Alabama of 1901, and execute a bond in a sum fixed by the county commission secured by a bonding company authorized to do business in Alabama. The bond shall be conditioned as other official bonds are conditioned and shall be approved by and filed with the judge of probate. The cost of the bond shall be paid out of the general fund of the county on a warrant of the county commission and shall be a preferred claim against the county.

Section 6. The county revenue commissioner shall receive a salary of not less than the minimum salary provided by Section 40-6A-2 of the Code of Alabama 1975, payable in the manner prescribed by that section. The exact amount of the salary of the county revenue commissioner shall be set by resolution of the county commission prior to the county revenue commissioner taking office.

Section 7. The office of the tax assessor and the office of tax collector shall be abolished effective on the last day of the term to which they are elected, or on an earlier date as provided in this act if a vacancy occurs in either the office of tax assessor or tax collector.

Section 8. Sections 1 to 7, inclusive, of this act shall become operative only if approved by a majority of the qualified electors of Conecuh County who vote in an election to be held on the day designated by the Judge of Probate of Conecuh County. The notice of the election shall be given by the judge of probate, which notice shall be published once a week for three successive weeks before the day of the election, and the election shall be held, conducted, and the results canvassed in the manner as other county elections. The election shall be held in conjunction with the next regularly scheduled state or local election to be held in the county. The question shall be, "Do you favor the adoption of Act No. _____, of the 1997 Regular Session of the Alabama Legislature which provides for the abolition of the Office of Tax Assessor and the Office of Tax Collector of Conecuh County and the consolidation of the duties of those offices into the one office to be known as the County Revenue Commissioner of Conecuh County? Yes () No ()." The county shall pay any costs and expenses not otherwise reimbursed by a governmental agency which are incidental to the election. If a majority of the votes cast in the election are "Yes," Sections 1 to 7, inclusive, of this act shall become operative immediately. If the majority of the votes are "No," this act shall have no further effect. The Judge of Probate of Conecuh County shall certify the results of the election to the Secretary of State.

Section 9. If either the office of tax assessor or the office of tax collector becomes vacant before the expiration of the term of office and before the time of the election provided by this act the remaining officer shall serve in an acting capacity for the vacant

office without additional compensation until the remaining provisions of this act become operative or have no further effect. If Sections 1 to 7, inclusive, of this act become operative, the remaining officer shall be the county revenue commissioner for the remainder of the term for which he or she was elected.

Section 10. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 3, 1998

Time: 10:18 A.M.

Act No. 98-126

H. 424 – Rep. Buskey

AN ACT

Relating to Mobile County; to exempt the sale of Christmas trees, sold from the tree lot of the Mobile Optimist Club from the payment of all county and municipal sales and use taxes and gross receipts taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in Mobile County.

Section 2. Christmas trees sold from the tree lot of the Mobile Optimist Club are exempted from all county and municipal sales and use taxes and gross receipts taxes whose proceeds are annually donated from the sale of Christmas trees to the Boys & Girls Clubs of Greater Mobile, Inc., a non-profit 501 (c)(3) organization.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 3, 1998

Time: 10:19 A.M.

Act No. 98-127

S. 283 – Senators Waggoner, McClain,
Escott-Russell, Davidson and
Smitherman

AN ACT

To propose an amendment to the Constitution of Alabama 1901, providing for: the levy of a general one cent sales and use tax, a one-eighth of one percent sales and use tax on automotive vehicles, and a two cent lodgings tax in Jefferson County; the collection and distribution of such taxes and other administrative matters related to the same; penalties for the failure to pay such taxes or to file the reports required in connection with the collection of such taxes; the establishment

of a public non-profit corporation for, among other things, the purpose of receiving and expending the revenues from such taxes; the governance of such corporation by a board of directors; the powers of such corporation, including the power to issue bonds; the expenditure of such tax revenues by such corporation for certain specified purposes; the delegation by such corporation of certain responsibilities for expending certain funds to Discovery 2000, Inc. and the Birmingham-Jefferson Civic Center Authority; the authorization of the Birmingham-Jefferson Civic Center Authority to exercise any powers delegated to it by such corporation notwithstanding any provision or provisions of the Constitution of Alabama 1901, or Act No. 65-547, as amended, or any other laws of the state to the contrary; the validation and confirmation of all acts done by the Birmingham-Jefferson Civic Center Authority pursuant to any authority specifically delegated to it by such corporation; the repeal of a portion of the sales tax levied hereby upon certain conditions; and to provide for an election upon such proposed amendment in accordance with Amendment 555 to the Constitution of Alabama 1901, and the general election laws of this state

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

“Section 1. Levy of Sales and Use Tax in Jefferson County.

(a) There is hereby levied in Jefferson County, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amount to be determined by the application of the rates prescribed in subsection (c) of this Section 1 against gross sales or gross receipts, as the case may be.

(b) The tax levied by subsection (a) of this Section 1 shall apply to and is imposed and levied upon every person required to pay, on account of business done by him in Jefferson County, the state sales tax or upon whom, on account of business done by him in Jefferson County, the state sales tax is levied; provided, that in the event of the repeal of the statutes imposing the state sales tax, the tax levied by subsection (a) of this Section 1 shall apply to and be imposed and levied upon (i) every person who would, had it not been for such repeal, been required to pay, on account of business done by him in Jefferson County, the state sales tax, and (ii) every person upon whom, had it not been for such repeal, the state sales tax would, on account of business done by him in Jefferson County, been levied. As used in this amendment, state sales tax shall mean the tax imposed by the statutes imposing a state-wide sales tax in the state including, without limitation, Sections 40-23-1, 40-23-2, 40-23-3, and 40-23-4 of the Code of Alabama 1975.

(c) The rate of the sales tax levied by subsection (a) of this Section 1, with respect to any sale or transaction subject to such tax, shall be an amount equal to one percent (1%) of the gross proceeds of sales, provided, however, that the rate of such tax on any person, firm or corporation engaged in the type of business described in Section 40-23-2(4) of the Code of Alabama 1975 shall be an amount equal to one-eighth of one percent ($1/8\%$) of the gross proceeds from sales described in such section and provided further that such tax shall be subject to the qualifications, limitations and exceptions set forth below in this Section 1.

(d) As used in this Section 1, the term "seller" means any person engaged in any business subject to the tax levied by subsection (a) of this Section 1 of this amendment. Every seller upon whom the tax levied by subsection (a) of this Section 1 is imposed shall collect the tax from the purchaser by adding the said tax to the sales or admission price.

(e) Any sale or transaction in Jefferson County subject to the state sales tax shall be subject to the tax levied in subsection (a) of this Section 1; provided, however, that in the event of the repeal of the statutes imposing the state sales tax, any sale or transaction in Jefferson County subject to the state sales tax immediately prior to any such repeal shall be subject to the tax levied by subsection (a) of this Section 1.

(f) Any exemption provided for by the statutes imposing the state sales tax shall, during the period of time which such exemption shall be effective in said statutes, be applicable to the tax levied by subsection (a) of this Section 1; provided, that in the event of the repeal of the statutes imposing the state sales tax, the exemptions effective therein immediately prior to such repeal shall thereafter be applicable to the tax levied in subsection (a) of this Section 1.

(g) In the absence of any express provision herein to the contrary, all provisions and procedures with respect to the application for and issuance of licenses, the making of returns or reports, the contents of returns or reports, collection, and payment of taxes, keeping of records, reporting and paying taxes with respect to sales on credit, determination of the amount of the tax due, penalties, assessments, notices and examinations of taxpayers and their books provided for in the statutes imposing the state sales tax with respect to the state sales tax including, without limitation, the provisions of Section 40-23-2(4) of the Code of Alabama 1975, shall be applicable to the tax levied in subsection (a) of this Section 1, excepting, however, the procedure for appeals from assessments, which appeals shall be taken as hereinafter set forth. Any procedure or provision

involving the State Department of Revenue which is incorporated herein by reference to the statutes imposing the state sales tax shall be deemed to apply, with respect to the tax levied in subsection (a) of this Section 1, to the officer charged with the duty of collecting licenses or privilege taxes in Jefferson County, hereinafter referred to as the Director of Revenue.

(h) Nothing contained in this amendment, however, shall be construed as imposing any additional tax or license upon or with respect to the sales made by the Alabama Alcoholic Beverage Control Board.

(i) An excise tax is hereby imposed on the storage, use or other consumption in Jefferson County of tangible personal property purchased at retail on or after the effective date of the tax levied hereby for storage, use or other consumption in Jefferson County, at the rate of one percent (1%) or, in the case of the storage, use, or other consumption in Jefferson County of the type of tangible personal property described in Section 40-23-61(c) of the Code of Alabama 1975 at the rate of one-eighth of one percent (1/8%), of the sales price of such property or the amount of tax collected by the seller, whichever is greater, regardless of whether the retailer who made the sale is or is not engaged in business in Jefferson County.

(j) Any storage, use or other consumption in Jefferson County of tangible personal property subject to the state use tax shall be subject to the use tax levied by subsection (i) of this Section 1 at the applicable rate therein prescribed; provided that in the event of the repeal of the statutes imposing the state use tax, any such storage, use or other consumption in Jefferson County of tangible personal property purchased at retail which was subject to the state use tax immediately prior to such repeal shall continue to be subject to the use tax levied by subsection (i) of this Section 1. As used in this amendment, state use tax shall mean the tax imposed by statutes imposing a state-wide use tax in the state, including, without limitation, Sections 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

(k) Each exemption provided for in the statutes imposing the state use tax shall, during the period of time for which such exemption is therein effective, be applicable to the tax levied by this subsection (i) of this Section 1, provided that in the event of the repeal of the said state use tax statutes, the exemptions effective therein immediately prior to any such repeal shall thereafter be applicable to the tax levied in subsection (i) of this Section 1.

(l) All provisions and procedures with respect to the filing of returns, collection and payment of taxes, keeping of records, making

of reports, determination of the amount of the tax due, penalties, assessments, notices, examinations of taxpayers and their books provided in the statutes imposing the state use tax with respect to the state use tax including, without limitation, the provisions of Section 40-23-61(c) of the Code of Alabama 1975, shall be applicable to the tax levied in subsection (i) of this Section 1 unless otherwise provided herein, excepting, however, the procedure for appeals from assessments, which appeals shall be taken as hereinafter set forth. Any procedure or provisions involving the State Department of Revenue which are incorporated herein by reference to the statutes imposing the state use tax shall be deemed to apply, with respect to the tax levied in subsection (i) of this Section 1, to the Director of Revenue.

(m) Every person storing, using or otherwise consuming in Jefferson County tangible personal property purchased at retail shall be liable for the tax imposed in subsection (i) of this Section 1 and the liability shall not be extinguished until the tax has been paid; provided, however, that a receipt from a retailer maintaining a place of business in Jefferson County, showing that the property in question was purchased at retail from such retailer and that the tax levied in subsection (a) of this Section 1 of this amendment has been paid with respect to the purchase at retail of such property, shall be sufficient to relieve the purchaser from further liability for a tax under subsection (i) of this Section 1 with respect to the use, storage or consumption of such property.

(n) The tax levied in subsection (a) of this Section 1, except as otherwise provided, shall be due and payable monthly on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the day on which said tax becomes due and payable, every person on whom said tax is imposed shall render to the Director of Revenue, on a form prescribed by the said Director, a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the then next preceding month, the amount of gross proceeds or gross receipts which are not subject to the said tax or are not to be used for a measurement of the said tax due from such person, and the nature thereof, together with such other information as the Director of Revenue may require, and at the time of making such monthly report such person shall pay to the Director of Revenue the amount of the tax shown to be due; provided, however, that when the total tax for which any person is liable under subsection (a) of this Section 1 does not exceed Ten Dollars (\$10) for any month, a quarterly return and remittance in lieu of the monthly returns and remittances may be made on or before the twentieth day of the month

next succeeding the end of the quarter for which the tax is due, when specially authorized by the Director of Revenue and under such rules and regulations as may be prescribed. The Director of Revenue, for good cause, may extend the time for making any return required under the provisions of this amendment, but the time for filing any such return shall not be extended for a period greater than thirty (30) days from the date such return is due to be made.

(o) The tax levied in subsection (i) of this Section 1 shall be due and payable quarterly on or before the twentieth day of the month next succeeding the quarterly period during which the said tax shall have accrued for the storage, use or other consumption of tangible property. Every person purchasing tangible property the storage, use or other consumption of which is subject to the tax levied in subsection (i) of this Section 1 and with respect to the retail sale of which the tax levied in subsection (a) of this Section 1 has not been paid, shall, on or before the twentieth day of the month following the close of the quarterly period within which such storage, use or other consumption shall first occur, file with the Director of Revenue a return for the preceding quarterly period, in such form as may be prescribed by the said Director, showing the total sales price of the tangible personal property purchased by such person, the storage, use or consumption of which became subject, during the preceding quarterly period, to the tax imposed by subsection (i) of this Section 1, and such other information as the said Director may deem necessary for the proper administration of this section. The return shall be accompanied by a remittance of the amount of tax levied in subsection (i) of this Section 1.

(p) Any discount at any time allowed under the statutes imposing the state sales tax, with respect to the tax levied thereby, shall at such time be applicable to the tax levied in subsection (a) of this Section 1. Any discount at any time allowed by the statutes imposing the state use tax, with respect to the tax levied thereby, shall at such time be applicable to the tax levied in subsection (i) of this Section 1.

(q) Any person subject to the provisions of this Section 1 who shall fail to make the reports or any of them, as herein required, or who shall fail to keep the records as herein required, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars, nor more than five hundred dollars, for each offense. Each month of such failure shall constitute a separate offense.

(r) Any person subject to the provisions of this Section 1 willfully refusing to make the reports herein required, or who shall

refuse to permit the examination of his records by the Director of Revenue, or his duly authorized agents, shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty dollars, nor more than five hundred dollars for each offense, and in addition may be imprisoned in the Jefferson County jail for a period not to exceed six months. Each month of failure to make such reports shall constitute a separate offense, and each refusal of a written demand of the Director of Revenue to examine, inspect or audit such records shall constitute a separate offense.

(s) The taxes levied in this Section 1 shall constitute a debt due the Director of Revenue, and may be collected by civil suit brought within three years after the taxes become due and payable. The Director of Revenue shall have the power to bring and prosecute any such suits in his own name. The provisions of this subsection (s) of this Section 1 are cumulative and shall not be deemed to abridge or limit the power of the Director of Revenue to use all other methods of collection that are set forth in the statutes imposing the state sales tax and the statutes imposing the state use tax and that are herein conferred on the Director of Revenue by reference to such statutes or otherwise.

(t) The Director of Revenue may, by bill or petition filed in the Circuit Court of Jefferson County, in equity, obtain orders or decrees for either or both of the following: (1) enjoining the operation and conduct of any business activities which are subject to the tax imposed by subsection (a) of this Section 1 and with respect to which the said tax is delinquent in whole or in part; and (2) an accounting as to the amount of said tax due from any person; any such bill or petition shall be brought in the name of the Director of Revenue and shall be verified by him. All procedures provided for in Sections 150 through 161 of Chapter 51 of Title 11 of the Code of Alabama 1975, with respect to bills or petitions filed by municipalities under that article, the dissolution or reinstatement of injunctions, the making and forfeiting of bonds, appeals, and institution of subsequent suits shall be applicable to any proceedings for an injunction or accounting filed by the Director of Revenue pursuant to the provisions of this subsection (t). The provisions of this subsection (t) are cumulative and shall not be construed to replace or modify any other remedies or methods of collection available to the Director of Revenue. The enforcement of the lien provided for in subsection (u) of this Section 1 shall not be deemed a waiver of any right acquired by the Director of Revenue against the bond of a respondent in any proceedings hereunder.

(u) The taxes levied by this Section 1, together with all interest and penalties applicable thereto, shall be a lien upon the property of the persons required to pay such taxes and all of the provisions

of the revenue laws of the State of Alabama with respect to the enforcement of liens for license taxes to the State of Alabama shall apply to the enforcement of the lien of the taxes levied by this Section 1. The said lien shall attach as of the date any tax shall be due hereunder, and the said lien shall be superior to all other liens, except the liens of the state, the county, and cities in the county securing ad valorem and license taxes and the liens of any such city securing public improvement assessments.

(v) The Director of Revenue shall have the following powers: (1) The power to administer this Section 1 including the collection of the taxes herein levied, the payment of the expenses incurred in the administration of this Section 1 and the collection of said taxes, the distribution of the proceeds in accordance with the provisions of subsection (x) of this Section 1, and the refund of claims in accordance with the provisions of subsections (y) and (z) of this Section 1; (2) the power to exercise, with respect to the tax levied in subsection (a) of this Section 1, all powers and functions as to collection of taxes, giving notices, making assessments and enforcing penalties, issuing executions, summoning and examining taxpayers and other witnesses, examining books and papers, and making of demands that are conferred on the State Department of Revenue by the statutes imposing the state sales tax as to the tax levied therein; (3) the power to exercise, with respect to the tax levied in subsection (i) of this Section 1, all powers and functions as to collection of taxes, giving notices, making assessments and jeopardy determinations and redeterminations, enforcing penalties, issuing executions, summoning and examining taxpayers and other witnesses, examining books and papers, and making of demands that are conferred on the State Department of Revenue by the statutes imposing the state use tax as to the tax levied therein; (4) the power to file and enforce the lien provided for as security for each of the taxes levied in this Section 1; (5) the power to bring and prosecute suits, to conduct litigation and to take any other legal action necessary to enforce the provisions of this Section 1; (6) the power to prescribe forms and fix regulations not in conflict with the provisions of this Section 1; and (7) the power to exercise all powers incidental to, and reasonably necessary to the accomplishment of, the powers hereinabove set forth in clauses (1) to (6) of this subsection (v).

(w) Whenever any taxpayer who has duly appeared and protested a final assessment made by the Director of Revenue is dissatisfied with the assessment finally made, he may appeal from said final assessment to the Circuit Court of Jefferson County, sitting in Equity, by filing notice of appeal with the Director of Revenue and with the register of said court within thirty (30) days

from the date of said final assessment, and in addition to thereto by giving bond conditioned to pay all costs, such bond to be filed with and approved by the register of said court. All state laws, as presently drawn or as hereafter amended, pertaining to payment of an assessment unless a supersedeas bond shall be filed and approved, the burden of proof, and the procedure to be followed in appeals from the judgment of the said court, shall be applicable to appeals from final assessments made hereunder, and the Director of Revenue shall have with regard to such appeals all the rights conferred on and the functions assigned to the Department of Revenue by said laws.

(x) An amount equal to one-fourth (1/4) of the amount collected pursuant to this Section 1 shall be distributed to the Birmingham Area Regional Transit Authority now or hereafter organized under Act No. 97-678, as amended, and the entire remainder thereof shall be distributed to the corporation established under Section 3 of this amendment to be used by said corporation as provided in Section 4 of this amendment. All such amounts shall be so distributed by the Director of Revenue by the twentieth (20th) day of the calendar month next succeeding the calendar month in which any such amounts are collected.

(y) Any resident of Jefferson County who actually paid the additional sales or excise tax levied in this Section 1 and who was at all times during the calendar year in which the tax was paid sixty-five (65) years of age or older, shall be entitled to a refund of such tax payments made during the preceding calendar year in an amount not to exceed Forty-Two Dollars (\$42.00). To obtain any such refund, a claim for refund shall be filed with the Director of Revenue between January 1 and April 15 of the succeeding calendar year. All claims shall be filed on claim forms prescribed by the Director of Revenue which shall include a statement signed by the claimant under the penalty of perjury containing appropriate certifications concerning the validity of his claim. Only one refund claim shall be filed per person per calendar year.

(z) The Director of Revenue shall review all claims received to determine the claimant's eligibility to receive a refund and may request such further information and documentation as needed to verify the claimant's eligibility. If the Director of Revenue shall determine that a claimant's claim is proper and due to be paid, the Director of Revenue shall pay the claimant the amount of the refund requested prior to the end of the calendar year in which the claim was received, without interest, subject to the limitation set forth hereinabove. Prior to September 1, the Director of Revenue shall notify the Birmingham Area Regional Transit Authority and the corporation established under Section 3 of this amendment of

the total amount of refunds paid or due to be paid during the current calendar year. Upon receipt of such notice, but no later than October 1 of the current calendar year, the Birmingham Area Regional Transit Authority and the corporation established under Section 3 of this amendment shall reimburse the Director of Revenue a percentage of the amount of refunds so paid equal to the percentage of the revenues received by each under subsection (x) of this Section 1.

Section 2. Levy of Lodgings Tax in Jefferson County.

(a) In addition to all other taxes imposed by law, there is hereby levied a privilege or license tax, in the amount hereinafter prescribed against every person, organization, or other entity engaging in Jefferson County in the business of renting or furnishing any room or rooms, lodging, or accommodations, in any hotel, motel, inn, tourist court, or any other place in which rooms, lodgings, or accommodations are regularly furnished for a consideration. The amount of the taxes levied by this Section 2 shall be equal to two percent (2%) of the charge for such rooms, lodgings, or accommodations.

(b) There are exempted from the provisions of the tax levied by this Section 2 and from the computation of the amount of the tax levied or payable the following: charges for property sold or services furnished which are required to be included in the state sales tax; boarding houses, tourist homes, and similar establishments regularly offering less than five rooms for rental; charges for the rental of rooms, lodgings, or accommodations furnished by any hospital, nursing homes, convalescent homes, or by any charitable or eleemosynary institutions; and charges for the rental of rooms, lodgings, or accommodations for a period of thirty (30) continuous days or more. The exemption pursuant to this subsection (b) of this Section 2 shall apply to any property sold or services furnished which are required to be included in any sales tax now or hereafter levied by the State of Alabama.

(c) The taxes levied by this Section 2, except as otherwise provided, shall be due and payable to the Director of Revenue or any other officer or employee of Jefferson County charged with the duty of collecting county licenses or privilege taxes, on or before the (20th) day of each month next succeeding the month in which the tax accrues. On or before the (20th) of each month after the effective date of the taxes every person upon whom the tax is levied by this Section 2 shall render to the Director of Revenue on a form prescribed by him or her, a true and correct statement showing the gross proceeds of the business subject to the tax for the then preceding month, together with such other information as

the Director of Revenue may demand and require. When making the monthly report the taxpayer shall compute and pay to the Director of Revenue the amount of taxes shown to be due, provided, however, any person subject to the tax who conducts any business on a credit basis may defer reporting and paying the tax until after the person receives payment for the items, articles, or accommodations furnished. In the event the taxpayer so defers reporting and paying any taxes he or she shall thereafter include in each monthly report all credit collections made during the then preceding month and shall pay the amount of taxes computed thereon at the time of filing the report. Every person engaged or continuing in any business subject to the taxes levied by this Section 2 shall keep and preserve suitable records of the gross proceeds of the business and such other books or accounts as may be necessary to determine the amount of tax for which he or she is liable. The records shall be kept and preserved for a period of five years and shall be open for examination at any time by the Director of Revenue or by any duly authorized agent, deputy, or employees of the director. Any person who fails to pay the tax levied by this Section 2 within the time required by this amendment shall pay in addition to the tax a penalty of ten percent (10%) of the amount of tax due, together with interest thereon at the rate of one-half of one percent per month or fraction thereof from the date on which the tax became due and payable, to be assessed and collected as a part of the tax. The Director of Revenue may, if good and sufficient reason is shown, waive or remit the penalty or any portion thereof.

(d) The failure of any person to pay any tax levied by this Section 2 within the time specified for the payment of the same by this Section 2 shall constitute a misdemeanor. The violation of any of the provisions of this Section 2 by any person shall constitute a misdemeanor. Any person violating any provisions of this Section 2 shall upon conviction be punished by fine of not more than Five Hundred Dollars (\$500) and may also be sentenced to hard labor for Jefferson County for not exceeding six (6) months, or both, unless a different punishment is prescribed herein.

(e) All amounts collected pursuant to this Section 2 shall be distributed by the Director of Revenue to the corporation established under Section 3 of this amendment before the twentieth 20th day of the calendar month next succeeding the calendar month in which any such amounts are collected to be used by said corporation as provided in Section 4 of this amendment.

Section 3. Establishment of The Jefferson County Progress Authority.

(a) Upon the adoption of this amendment, the governing body of Jefferson County, Alabama shall by resolution appoint three persons, each of whom must be a resident of Jefferson County, to organize a public corporation in accordance with the procedure set forth herein for the purpose of carrying out the purposes of this amendment. Such appointees shall be the incorporators of such corporation.

(b) Within ten days following the appointment of the incorporators, the incorporators shall proceed to incorporate the corporation by filing for record in the office of the Judge of Probate of Jefferson County, Alabama, a certificate of incorporation which shall comply in form and substance with the requirements of this subsection and which shall be in the form and executed in the manner herein provided. The certificate of incorporation shall set forth:

(1) The names and resident addresses of the incorporators, together with a recital that each of them is a resident of Jefferson County;

(2) The name of the corporation, which shall be "The Jefferson County Progress Authority";

(3) The location of the principal office of the corporation which shall be within Jefferson County;

(4) A statement that the corporation is organized for the purposes set forth in this amendment with all the powers and authorities specified in this amendment;

(5) The period of the duration of the corporation (if the duration is to be perpetual, that fact shall be stated); and

(6) Any other matters which the persons forming the corporation may choose to insert therein which shall not be inconsistent with this amendment or with the laws of the State of Alabama.

The certificate of incorporation shall be subscribed and acknowledged by each of the incorporators before an officer or officers authorized by the laws of the State of Alabama to take acknowledgments to deeds, and the certificate of incorporation shall have attached thereto a certified copy of the resolution provided for in subsection (a) of this Section 3. The certificate of incorporation shall be filed with the Judge of Probate of Jefferson County and with the Secretary of State. The Judge of Probate shall thereupon examine the certificate of incorporation and, if he finds that the recitals contained therein are correct and that the requirements of this subsection have been complied with, he shall approve the certificate of incorporation and record it in an appropriate book

or record in his office and shall also file the certificate of incorporation with the Secretary of State. When such certificate is so filed, the corporation referred to therein shall come into existence and shall constitute a public body corporate and politic, vested with the rights and powers herein granted.

(c) The certificate of incorporation of the corporation incorporated under the provisions of this amendment may at any time and from time to time be amended in the manner provided in this subsection. The board of directors of the corporation shall first adopt a resolution adopting an amendment to the certificate of incorporation which shall be set forth in full in the said resolution and which amendment may include any matters which might have been included in the original certificate of incorporation.

After the adoption of the resolution proposing an amendment to the certificate of incorporation of the corporation by the board of directors of the corporation, the chairman of the board of directors and secretary of the corporation shall sign and file for record in the office of the Judge of Probate in Jefferson County and in the office of the Secretary of State a certificate in the name of and in behalf of the corporation under its seal, reciting the adoption of said resolution by the board of directors. The Judge of Probate for Jefferson County shall thereupon record such certificate in an appropriate book in his office. When such certificate has been so filed and recorded, such amendment shall become effective, and the certificate of incorporation shall thereupon be amended to the extent provided in the amendment.

(d) The corporation shall be governed by a board of directors in which all of the powers of the corporation shall be vested pursuant to its authority, and which shall consist of twelve (12) members. The members of the board of directors shall be as follows:

(1) One director shall be the Mayor of the City of Birmingham, Alabama;

(2) One director shall be the chief presiding officer of the Jefferson County Commission;

(3) One director shall be the mayor of the municipality in Jefferson County who is serving as the president of the Jefferson County Mayor's Association, or, in the event the Mayor of Birmingham is serving as such president, such other mayor appointed by such association;

(4) Two directors shall at all times be incumbent members of the state Senate representing part or all of Jefferson County and shall be elected by majority vote of the members of the state Senate representing part or all of Jefferson County for an initial

term commencing immediately upon such election and terminating on November 1, 2002, and subsequent terms of four years each;

(5) Two directors shall at all times be incumbent members of the state House of Representatives representing part or all of Jefferson County and shall be elected by majority vote of the members of the state House of Representatives representing part or all of Jefferson County for an initial term commencing immediately upon such election and terminating on November 1, 2002 and subsequent terms of four years each;

(6) One director shall be the Sheriff of Jefferson County;

(7) Four directors shall be appointed by Citizens for the Future of Jefferson County, Inc., an Alabama nonprofit corporation, for staggered terms of office as follows: two years for the first appointee; three years for the second and third appointees; four years for the fourth appointee; and thereafter the term of office of each of such directors shall be four years. Any director appointed by Citizens for the Future of Jefferson County, Inc. must at the time of their appointment serve as one of the following:

(i) The chairman of the Metropolitan Development Board;

(ii) The chairman of the Alabama Sports Foundation; or

(iii) The chief executive officer, president or chairman of a commercial business with offices located in and employees working in Jefferson County.

Directors appointed under this subsection (d)7 of this Section 3 must be confirmed by the joint Jefferson County House and Senate delegations.

The respective appointments by Citizens for the Future of Jefferson County, Inc. and the Jefferson County Mayor's Association shall be evidenced by written certificates of appointment signed by the respective officers of said organizations. If Citizens for the Future of Jefferson County, Inc. or the Jefferson County Mayor's Association is dissolved or otherwise no longer exists at any time after the adoption of this amendment, their respective rights to appoint directors shall belong to the incumbent directors of the corporation excluding any director whose term is expired and whose seat the board of directors is seeking to fill provided that any appointment made on behalf of the Jefferson County Mayor's Association must be a mayor of a municipality in Jefferson County other than the Mayor of Birmingham.

Each director must be a resident of Jefferson County except for the directors appointed from the State Senate and State House of

Representatives. If any director resigns or dies or becomes incapable of acting as a director or ceases to reside in Jefferson County or is otherwise disqualified to act, his or her successor shall serve, or shall be appointed to serve for the unexpired term in the manner prescribed hereinabove by the appointing body which elected the director whose unexpired term is being filled, as the case may be. If at the expiration of any term of office of any director, a successor thereto shall not have been elected, then the director whose term of office shall have expired shall continue to hold office until a successor shall be so elected.

A majority of the members of the board of directors shall constitute a quorum for the transaction of business, provided, however, that the transaction of any business shall require an affirmative vote of no less than nine (9) members of the board of directors. Any meeting of such board of directors may be adjourned from time to time by a majority of the directors present or may be so adjourned by a single director if such director is the only director present at such meeting. No vacancy in the membership of the board of directors shall impair the right of a quorum to exercise all the powers and duties of the corporation. The board of directors shall hold regular meetings at such times as may be provided in the by-laws of the corporation, may hold other meetings at any time upon notice of the meeting being given as required by the by-laws of the corporation, and shall, upon call of the chairman of the corporation or a majority of the total number of directors, hold a special meeting. Any matter in which the board of directors is authorized to act may be acted upon at a regular, special or called meeting. At the request of any director, the vote on any question before the board of directors shall be taken by ayes and nays entered upon the record. All proceedings of the board of directors shall be reduced to writing by the secretary of the board of directors and recorded in a well-bound book which shall be open for inspection by each director and the public at all reasonable times. Copies of such proceedings when certified by the secretary of the corporation under its seal shall be received in all courts as evidence of the matters and things therein certified. The directors and officers of the corporation shall serve without compensation, except that they may be reimbursed for actual expenses incurred in the performance of their duties. Any director may be impeached and removed from office in the manner and on the same grounds provided for in Section 175 of the Constitution of Alabama 1901, and the general laws of the state for impeachment and removal of officers mentioned in said Section 175.

(e) The corporation shall have a chairman, a vice chairman, a secretary, and a treasurer and such other officers as the board of

directors shall deem necessary, including one or more assistant secretaries, but the office of secretary and treasurer may be held by the same person. The chairman and vice chairman of the corporation shall be elected by the board of directors from the membership thereof; the secretary, any assistant secretary, the treasurer, and any other officer of the corporation may, but need not, be a member of the board of directors and shall also be elected by the board of directors. Once elected, the officers of the corporation shall serve until their respective successors are chosen and elected. The duties of the chairman, vice-chairman, secretary and treasurer shall be such as are customarily performed by such officers and as may be prescribed by the board of directors in the bylaws or otherwise. The duties of any other officer of the corporation shall be such as are from time to time prescribed by the board of directors in the bylaws or otherwise. The chairman, vice chairman, secretary and treasurer of the corporation shall also be the chairman, vice chairman, secretary and treasurer of the board of directors, respectively.

(f) The corporation organized and existing under the provisions of this amendment shall have the following powers, together with all powers incident thereto or necessary for the performance of those stated herein:

(1) To have succession by its corporate name in perpetuity or for the duration specified in its certificate of incorporation;

(2) To adopt and from time to time amend bylaws for the regulation of its affairs and the conduct of its business;

(3) To adopt an official seal and alter the same at its pleasure;

(4) To maintain a principal office in Jefferson County and sub-offices at such other places as its board of directors may designate in Jefferson County;

(5) To sue and be sued in its own name, excepting actions in tort against the corporation, and to defend actions against it;

(6) To finance, construct, develop, own, operate, manage, maintain, equip, use and control its projects, or provide for the same for one or more of its projects by agreement with any other person, corporation, partnership or other entity, public or private, upon such terms and conditions as the corporation may deem appropriate. The corporation's projects may include all of the facilities necessary or convenient for the projects which the corporation is specifically authorized to fund in Section 4 of this amendment, and any or all facilities useful or necessary to provide for public meetings, athletic contests, concerts, theatrical performances, trade shows, exhibitions, or any other events which contribute to

the cultural betterment of the community or which entertain or educate the persons attending such events or using any such facilities, which shall include, without limitation, all or any of the following: parking facilities, streets, boulevards, walkways, parkways and other transportation facilities; parks; monuments; areas and facilities for aquatic training and entertainment and the training and entertainment of any other sports; stadiums; coliseums; arenas; grand stands; auditoriums; meeting halls; pavilions; music halls; theaters; museums; libraries; hotels or motels; trails for hiking, bicycling or horseback riding; nature trails; botanical gardens; zoos; and administrative buildings related to any of the foregoing;

(7) To acquire, whether by purchase, construction, exchange, gift, lease or otherwise and to improve, equip and furnish and to own and maintain or lease one or more projects or parts thereof, including all real and personal properties and interests therein which its board of directors may deem necessary in connection therewith, regardless of whether or not any such project or projects shall then be in existence;

(8) To acquire, receive, hold, lease or operate, whether by purchase, gift, devise or otherwise, property of every description, whether real, personal or mixed, and to manage the same and to improve or develop any undeveloped property owned, leased or controlled by it;

(9) To extend credit or make loans to, or give its moneys, or expend its moneys for the benefit of, any person, corporation, partnership, or other entity, public or private, for the costs of any of the corporation's projects which credit, loans or gifts may be evidenced or secured by such instruments and upon such terms and conditions as the corporation shall determine, and in the exercise of the powers granted hereby in connection with any such project, the corporation shall have the right and power to require the inclusion in any such instrument such conditions or requirements relating to the insurance, construction, use, operation, maintenance or financing of any such project, and such other terms and conditions as the corporation may deem necessary or desirable;

(10) To exchange, donate or convey any or all of its projects or properties or parts thereof to any person, corporation, partnership, or other entity, public or private, whenever its board of directors shall find such action to be in furtherance of the purposes for which the corporation was organized;

(11) To sell, exchange and convey any of its properties that may have become obsolete or worn out or that may no longer be needed or useful;

(12) To make, enter into, execute and deliver such contracts or instruments of writing and to take such action as may be necessary or convenient to carry out the purposes for which the corporation was organized or to exercise any power or authority granted herein;

(13) To lease or let any project or any part thereof to such tenant or tenants for such term or terms at such compensation or rentals, nominal or otherwise, and subject to such provisions, limitations and conditions as its board of directors may approve;

(14) To furnish or supply upon any of the corporation's projects or properties to the users thereof for reward or compensation, goods, commodities, and services convenient or useful to such users;

(15) To confer upon individuals, firms, corporations or companies, the privilege or concession of supplying upon any of the corporation's projects or properties all or any part of the goods, commodities, things or services authorized in the preceding subparagraph to be supplied;

(16) To fix and charge fees for admission to any of its properties;

(17) To procure and agree to the procurement of insurance or guarantees from the United States of America or any agency or instrumentality thereof, or from any private insurance company, for the payment of any bonds issued by the corporation, and to pay premiums or fees for any such insurance or guarantees;

(18) To enter into agreements or make arrangements pertaining to the issuance of letters of credit or other credit enhancement devices which its board of directors may deem necessary in connection with the sale of its bonds;

(19) To procure insurance against any loss in connection with its property and other assets in such amounts and from such insurers as its board of directors may deem desirable;

(20) To enter into contracts with, to accept aid, loans and grants from, to cooperate with, and to do any and all things not specifically prohibited by this amendment, and other applicable laws of the state that may be necessary in order to avail itself of the aid and cooperation of the United States of America, the state, the county or any agency, instrumentality or political subdivision of either thereof in furtherance of the purposes of the corporation;

(21) Without regard to any law establishing a civil service or merit system that might otherwise be applicable, to appoint, employ, contract with and provide for compensation of such officers,

employees and agents, including engineers, attorneys, planning consultants, fiscal advisors, architects, accountants, financial experts, fiscal agents, managers and such other advisors, consultants and agents as may in its judgment be necessary or desirable as the business of the corporation may require, including the power to fix working conditions by general rule or other conditions of employment and at its option to provide a system of disability pay, retirement compensation and pensions or any of them and to hire and fire servants, agents, employees and officers at will;

(22) To make and enforce rules and regulations governing the use of any property or facility or other property owned or controlled by the corporation;

(23) To enter into a management, consulting, or any other type of contract or contracts with any person, firm or corporation, whether public or private, without any requirement to comply with the laws of the State of Alabama requiring competitive bids that might otherwise apply to the awarding of such contracts for the management, supervision or operation of all or any part of the facilities it owns, operates or controls as may in the judgment of the corporation be necessary or desirable in order to perform any function for which it may become responsible in the exercise of the powers conferred upon it by this amendment;

(24) To invest its moneys including, without limitation, the moneys held in any special fund created pursuant to any trust indenture or agreement or resolution securing any of its bonds or notes and proceeds from the sale of any of its bonds or notes not required for immediate use in:

(i) Any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon);

(ii) Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies, to the extent that such obligations are secured by the full faith and credit of the United States of America: bank for cooperatives; federal intermediate credit banks; federal financing bank; federal home loan banks; federal farm credit bank; export-import bank of the United States; federal land banks; or farmers home administration, or any other agency or corporation which has been or may hereafter be

created by or pursuant to an act of the congress of the United States as an agency or instrumentality thereof, the bonds, debentures, participation certificates or notes of which are unconditionally guaranteed by the United States of America;

(iii) Bonds, notes, pass through securities or other evidences of indebtedness of the Government National Mortgage Association and participation certificates of the Federal Home Loan Mortgage Corporation;

(iv) Full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service;

(v) Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America;

(vi) Time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the federal deposit insurance corporation or the federal savings and loan insurance corporation, provided that, to the extent such time deposits exceed available federal deposit insurance, such time deposits are fully secured by obligations described in paragraphs (i), (ii), (iii) and (v) above, which at all times have a market value (exclusive of accrued interest) at least equal to such bank time deposits so secured, including interest, and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings;

(vii) Repurchase agreements for obligations of the type specified in paragraphs (i), (ii), (iii) and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the purchase price of such repurchase agreements and which are held by a depository satisfactory to the corporation in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; and

(viii) Uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by

Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

(25) To borrow money on such terms as are acceptable to the corporation for any corporate purpose and to execute and deliver its promissory note or notes and such other agreements as may be reasonably necessary or required to consummate the loan and secure the payment of the indebtedness;

(26) To issue its bonds for the purpose of carrying out any of its powers and to apply proceeds from the sale of its bonds not only for payment of interest thereon prior to and during the construction and equipping of any buildings, structures, facilities or other improvements being financed thereby, but also to pay bond discounts, commissions or other financing charges, interest on the obligations issued in evidence of such borrowing for such period as its board of directors shall deem advisable, fees and expenses of financial advisors and planning and management consultants, all legal, accounting, publishing, printing, recording and filing fees and expenses and such other expenses as shall be necessary or incident to such borrowing;

(27) To pledge, as security for the payment of the principal, interest and premium, if any, on any bonds issued by the corporation and any agreements made in connection therewith, all or any part of any revenues payable to the corporation by a county or municipality in the state or payable from the taxes made payable to the corporation by this amendment or any other act of the Legislature and to mortgage or pledge any or all of its projects or any part or parts thereof, whether then owned or thereafter acquired, and to pledge the revenues and receipts therefrom or from any thereof;

(28) To pledge, as security for the payment of the principal, interest and premium, if any, on any bonds issued by another issuing authority for the purpose of financing the construction, development, operation, management, maintenance, and equipping of any of the corporation's projects and any agreements made in connection therewith, all or any part of any revenues payable to the corporation by a county or municipality in the state or payable from the taxes made payable to the corporation by this amendment or any other act of the Legislature;

(29) To exercise the power of eminent domain in the manner provided in and subject to the provisions of Title 18 of the Alabama Code with respect to any property, real, personal or mixed, located in Jefferson County necessary or convenient for the corporation to construct, acquire or develop the projects provided for in subsections (a) (2) (ix) and (x) of Section 4 of this amendment;

(30) To exercise any power granted by the laws of the state to public or private corporations which is not in conflict with the purpose of the corporation and to do any and all things necessary or convenient to carry out its purposes and to exercise its powers pursuant to the provisions of this amendment.

(g) All facilities or projects of the corporation shall be located wholly within the limits of Jefferson County.

(h) All bonds issued by the corporation shall not be general obligations of the corporation but shall be payable solely out of such portions of the revenues and receipts of the corporation as may be designated in the proceedings of the board of directors under which the bonds shall be authorized to be issued.

As security for payment of the principal of and interest on any bonds issued or assumed by it, the corporation may enter into a contract or contracts, and adopt resolutions or other proceedings containing provisions constituting a part of the contract or contracts with the holders of the bonds, pertaining to, among other things, the following:

(1) Pledging all or any part of the revenues of the corporation to secure the payment of the bonds;

(2) Pledging, assigning, or mortgaging all or any part of the assets of the corporation to secure the payment of the bonds;

(3) The creation of reserve, sinking, or other funds and the regulation and disposition thereof;

(4) The issuance of additional parity bonds;

(5) The procedure, if any, by which the terms of any contract with the holders of the bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which the consent may be given;

(6) Limitations on the amount of moneys to be expended by the corporation for its operating expenses;

(7) Vesting in a trustee or trustees such property, rights, powers, and duties as the corporation may determine;

(8) Defining the acts or omissions to act that shall constitute a default in the performance of the obligations and duties of the corporation to the holders of the bonds and providing for the rights and remedies of the holders in the event of the default provided that the rights and remedies shall not be inconsistent with the other provisions of this amendment; and

(9) Any other matters, of like or different character, which in any way affect the security or protection of the holders of the bonds.

Issuance by the corporation of one or more series of bonds for one or more purposes shall not preclude it from issuing other bonds payable from the same revenues or source or from pledging towards the payment of another issuing authority's bonds the same revenues, but the contracts, resolutions or other proceedings whereunder any subsequent bonds may be issued, or subsequent pledge authorized, shall recognize and protect any prior pledge or mortgage made for the benefit of any prior issue of bonds by the corporation unless in the proceedings authorizing such prior issue the right was reserved to issue subsequent bonds or to make a subsequent pledge towards another issuing authority's bonds on a parity with such prior issue.

Any mortgage of property granted by the corporation, any security interest in property created by it, or any assignment or pledge of revenues or contract rights made by it, in each case to secure the payment of its bonds, shall be valid and binding from the time when the mortgage is granted, the security interest created, or the assignment or pledge is made, as the case may be, and the property so mortgaged, the property with respect to which the security interest is so created, and the revenues and contract rights so assigned or pledged shall immediately, or as soon thereafter as the corporation obtains any right thereto or interest therein, be subject to the mortgage, security interest, assignment, or pledge, as the case may be, without physical delivery of any property, revenues, or contract documents covered thereby or any further act, and the lien of such a mortgage, security interest, assignment, or pledge shall be valid and binding against all persons having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether the persons have actual notice thereof, from the time notice of the mortgage, security interest, assignment, or pledge is filed for record in the office of the Judge of Probate of Jefferson County. The notice shall contain a statement of the existence of such a mortgage, security interest, assignment, or pledge, as the case may be, a description of the property, revenues, or contract rights subject thereto and a description of the bonds secured thereby, all in terms sufficient to give notice to a reasonably prudent person of the existence and effect of the mortgage, security interest, assignment, or pledge. The notice may consist of (i) a summary statement prepared specially for the purpose of serving as the notice, (ii) an executed counterpart of any mortgage, security agreement, assignment, trust indenture, or other instrument granting the mortgage, creating the security interest, or making the assignment or pledge, as the case may be, or (iii) a certified copy of the resolution adopted by the board of directors of the corporation authorizing the mortgage, security interest, assignment, or pledge, as the case may be.

Each pledge, agreement, mortgage and deed of trust or trust indenture made for the benefit or security of any of the bonds of the corporation shall continue effective until the principal of and interest on the bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the corporation made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any mortgage and deed of trust or trust indenture executed as security therefor, such default may be enforced by mandamus, the appointment of a receiver, or either of said remedies, and foreclosure of such mortgage and deed of trust or trust indenture may, if provided for in said instrument, be had.

All bonds issued by the corporation shall be signed by the chairman or vice-chairman of its board of directors and attested by its secretary or any assistant secretary, and the seal of the corporation shall be affixed thereto; provided, that a facsimile of the signature of one, but not both, of said officers may be printed or otherwise reproduced on any such bonds in lieu of his manually signing the same; and provided further, that a facsimile of both such officers may be so printed or otherwise reproduced on any such bonds in lieu of their manually signing the same if such bonds are required to be authenticated by the manual signature of the duly designated registrar of such bonds, or an authorized officer of such registrar. A facsimile of the seal of the corporation may be printed or otherwise reproduced on any such bonds in lieu of being manually affixed thereon. If, after any of the bonds are so signed, whether manually or by facsimile, any officer shall, for any reason, vacate his or her office, the bonds so signed may nevertheless be delivered at any time thereafter as the act and deed of the corporation.

Any such bonds may be executed and delivered by the corporation at any time and from time to time, shall be in such form and denominations and of such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this amendment, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its board of directors. Bonds of the corporation may be sold at either public or private sale in such manner and at such price or prices and at such time or times as may be determined by the board of directors to be most advantageous. The corporation may pay all expenses, premiums and commissions in connection with any financing done by it.

All obligations created or assumed and all bonds issued or assumed by the corporation shall be solely and exclusively an obligation of the corporation and shall not create an obligation or

of the state or of any county or municipality; provided that the provisions of this sentence shall not be construed to release the original obligor from liability on any bond or other obligation assumed by the corporation.

Bonds of the corporation are hereby made legal investments for executors, administrators, trustees and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority, and for savings banks and insurance companies organized under the laws of the state.

(i) Any bonds issued by another issuing authority for which the corporation has pledged any revenues for the payment of such bonds shall not be general obligations of the corporation but shall be payable solely out of such portions of the revenues and receipts of the corporation as may be designated in the proceedings of the board of directors pursuant to which such pledge was authorized.

As security for payment of the principal of and interest on any bonds issued by another issuing authority for which the corporation has pledged any revenue for the payment of such bonds, the corporation may enter into a contract or contracts with such other issuing authority pertaining to, among other things, the pledging of all or any part of the revenues of the corporation to secure the payment of such bonds.

The pledging of all of any part of the revenues of the corporation to secure the payment of bonds issued by another issuing authority shall not preclude the corporation from issuing other bonds payable from the same revenues or source, or from pledging towards the payment of another issuing authority's bonds the same revenues, but the contracts, resolutions or other proceedings whereunder any subsequent bonds may be issued, or subsequent pledge authorized, shall recognize and protect any prior pledge made for the benefit of any prior issue of bonds by another issuing authority unless in the proceedings authorizing such prior pledge the right was reserved to issue subsequent bonds or to make a subsequent pledge toward another issuing authority's bonds on a parity with such prior pledge.

Any pledge of revenues or contract rights made by it, in each case to secure the payment of another issuing authority's bonds, shall be valid and binding from the time when the pledge is made and the revenues and contract rights so pledged shall immediately, or as soon thereafter as the corporation obtains any right thereto or interest therein, be subject to the pledge without physical delivery of any revenues or contract documents covered thereby or any further act, and the lien of such a pledge shall be valid and

binding against all persons having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether the persons had actual notice thereof, from the time notice of the pledge is filed for record in the office of the Judge of Probate of Jefferson County. The notice shall contain a statement of the existence of such pledge, as the case may be, a description of the revenues or contract rights subject thereto and a description of the bonds secured thereby, all in terms sufficient to give notice to a reasonably prudent person of the existence and effect of the pledge. The notice may consist of (i) a summary statement prepared especially for the purpose of serving as the notice, (ii) an executed counterpart of any instrument making the pledge, or (iii) a certified copy of the resolution adopted by the board of directors of the corporation authorizing the pledge.

Each pledge and agreement made for the benefit and security of any of the bonds of another issuing authority shall continue effective until the principal of and interest on such bonds for the benefit of which the same were made shall have been fully paid. In the event of default in such payment or in any agreements of the corporation made as a part of the contract under which the pledge was made, such default may be enforced by mandamus, the appointment of a receiver, or either of said remedies.

All obligations created or assumed and all pledges made by the corporation towards a payment of another issuing authority's bonds shall be solely and exclusively an obligation of the corporation and shall not create an obligation of debt of the state or of any county or municipality; provided that the provisions of this sentence shall not be construed to release the original obligor from liability on any pledge made by the corporation.

(j) All moneys derived from the sale of any bonds issued by the corporation shall be used solely for the purpose or purposes for which the same are authorized, including, but without limitation to, the use of bond proceeds to establish reserve funds as security for the payment of the principal of (and premium, if any) and interest on the bonds, and any costs and expenses incidental thereto. Such costs and expenses may include but shall not be limited to the fiscal, engineering, legal and other expenses incurred in connection with the issuance of the bonds, and except in the case of refunding bonds, interest to accrue on such bonds for a period ending not later than two years from their date.

(k) Any bonds issued by the corporation may from time to time be refunded by the issuance, by sale or exchange, of refunding bonds payable from the same or different sources for the purpose of paying all or any part of the principal of the bonds to be refunded, any

redemption premium required to be paid as a condition to the redemption prior to maturity of any such bonds that are to be so redeemed in connection with such refunding, any accrued and unpaid interest on the bonds to be refunded, any interest to accrue on each bond to be refunded to the date on which it is to be paid, whether at maturity or by redemption prior to maturity, and the expenses incurred in connection with refunding; provided, that unless duly called for redemption pursuant to provisions contained therein, the holders of any such bonds then outstanding and proposed to be refunded shall not be compelled without their consent to surrender their outstanding bonds for such refunding. Any refunding bonds may be sold by the corporation at public or private sale at such price or prices as may be determined by its board of directors to be most advantageous, or may be exchanged for the bonds or other obligations to be refunded. Any such refunding bonds may be executed and delivered by the corporation at any time and from time to time, shall be in such form and denominations and have such tenor and maturities, shall contain such provisions not inconsistent with the provisions of this amendment, and shall bear such rate or rates of interest, payable and evidenced in such manner, as may be provided by resolution of its board of directors.

Any refunding bonds issued by the corporation shall be issued and may be secured in accordance with the provisions of subsection (h) hereof.

(1) Upon the adoption by the board of directors of the corporation of any resolution providing for the issuance of bonds, the corporation may, in its discretion, cause to be published once a week for two consecutive weeks, in a newspaper published or having a general circulation in Jefferson County, a notice in substantially the following form (the blanks being properly filled in) at the end of which shall be printed the name and title of either the chairman or secretary of such corporation. "Jefferson County Progress Authority, a public corporation under the laws of the State of Alabama, on the _____ day of _____, authorized the issuance of \$ _____ principal amount of bonds of the said public corporation for purposes authorized in the amendment to the Alabama Constitution under which the said public corporation was organized. Any action or proceeding questioning the validity of the said bonds, or the pledge and the mortgage and deed of trust or trust indenture to secure the same, or the proceedings authorizing the same, must be commenced within thirty (30) days after the first publication of this notice".

Any action or proceeding in any court to set aside or question the proceedings for the issuance of the bonds referred to in said notice or to contest the validity of any such bonds, or the validity of

any pledge and mortgage and deed of trust or trust indenture made therefor, must be commenced within thirty (30) days after the first publication of such notice. After the expiration of the said period no right of action or defense questioning or attacking the validity of the said proceedings or of the said bonds or the said pledge or mortgage and deed of trust or trust indenture shall be asserted, nor shall the validity of the said proceedings, bonds, pledge, mortgage, and deed of trust or trust indenture be open to question in any court on any ground whatsoever except in an action commenced within such period.

(m) The corporation and all properties at any time owned by it and the income therefrom and all bonds issued by it and the income therefrom shall be exempt from all taxation in the State of Alabama, including, without limitation, ad valorem, recording, sales, excise, license and privilege taxes; provided, however, this exemption shall not be construed to exempt concessionaires or lessees of the corporation from the payment of any taxes, including licenses, privileges, or sales taxes levied by the state, county or any municipality. The certificate of incorporation of the corporation, the certificate of dissolution, all deeds or other documents whereby properties are conveyed to the corporation and all deeds, indentures or leases executed by the corporation may be filed for record in the office of the judge of probate of Jefferson County and, if necessary, in the office of the Secretary of State, without the payment of any tax or fees.

(n) Jefferson County nor any municipality located therein shall not in any event be liable for the payment of the principal of or interest on any bonds of the corporation or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever which may be undertaken by the corporation, and none of the bonds of the corporation or any of its agreements or obligations shall be construed to constitute an indebtedness of Jefferson County nor any municipality located therein within the meaning of any constitutional or statutory provision whatsoever.

(o) The corporation shall be subject to the Alabama Sunshine Law provided by Section 13A-14-2 of the Code of Alabama 1975;

(p) The corporation shall be exempt from the laws of the State of Alabama governing usury or prescribing or limiting interest rates.

(q) The corporation and all contracts made by it shall be subject to the laws of the State of Alabama requiring competitive bids for any contract to be entered into by municipalities or public corporations authorized by them, including, but without limitation to, the provisions of Chapter 2 of Title 39 and Article 3 of Chapter 16

of Title 41 of the Code of Alabama 1975, as they may at any time be amended provided, however, that no agreement entered into by the corporation for the financing, construction, development, ownership, management, maintenance, equipping, use or control of any of the projects specified in Section 4 of this amendment for an amount exceeding \$200,000,000 shall be subject to any such laws.

(r) The State Ethics Act, as it may be amended from time to time, shall apply to members of the board of directors of the corporation.

(s) The corporation shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event the board of directors shall determine that sufficient provision has been made for the full payment of the expenses, bonds and other obligations of the corporation, then any net earnings of the corporation thereafter accruing may be paid to Jefferson County.

(t) At any time when the corporation has no bonds or other obligations outstanding, its board of directors may adopt a resolution, which shall be duly entered upon its minutes, declaring that the corporation shall be dissolved. Upon filing for record of a certified copy of the said resolution in the office of the Judge of Probate of Jefferson County, the corporation shall thereupon stand dissolved and in the event it owns any property at the time of its dissolution, the title to all its properties shall thereupon pass to Jefferson County.

(u) The existence of a corporation incorporated under the provisions of this amendment shall prevent the subsequent incorporation hereunder of another corporation.

(v) For the purpose of assisting the corporation in carrying out the purposes for which it was organized, Jefferson County, or any municipality located therein, or any public corporation, agency or instrumentality of Jefferson County or any such municipality may, upon such terms and with or without consideration, as it may determine:

(1) Lend or donate money to or perform services for the benefit of the corporation;

(2) Donate, sell, convey, transfer, lease or grant to the corporation, without the necessity of authorization at any election of qualified voters, any property of any kind, any interest therein and any franchise;

(3) Do any and all things not otherwise prohibited by law, whether or not specifically authorized in this amendment, that are

necessary or convenient in connection with aiding and cooperating with the corporation in its efforts to carry out the purposes for which it was organized; and

(w) The corporation shall be subject to audit by the Alabama Department of Public Examiners.

Section 4. Use of Tax Revenues.

(a) The tax revenues payable under Sections 1 and 2 of this amendment to the corporation established under Section 3 of this amendment shall be expended by the corporation for the following purposes:

(1) Reimbursement of the Director of Revenue of the tax refunds paid by it pursuant to Section 1 of this amendment and payment of all costs incurred by the corporation in exercising its powers in accordance with its rights hereunder;

(2) After provision for the expenditure of the funds in subsection (a)(1) of this Section 4, funding the financing, construction, acquisition, development, operation, management, maintenance, or equipping of the following projects or types of projects in the following amounts, including, without limitation, the payment of the costs and expenses incident to issuing, paying debt service on, and establishing any reserve funds as security for payment of debt service on, one or more of the corporation's bonds or series of its bonds or one or more of the bonds or series of bonds issued by another issuing authority for the purpose of funding one or more of such projects, if any, and payment of all costs incurred by the corporation in exercising its powers incident to funding such projects:

(i) Seventy Five Million Dollars (\$75,000,000) shall be expended on capital expenditures necessary to promote and advance public education in Jefferson County, Alabama, which funds shall be allocated among all county, municipal, district or other public school systems operating primary and/or secondary schools in Jefferson County, and if there shall be more than one of such school systems, such funds shall be allocated to such school systems in proportion to their average daily membership of students residing in Jefferson County during the most recently completed school year provided, however, that any of the funds received by any such school systems hereunder shall not be counted for determining the amount to which each such school system is entitled to under the Foundation Program referred to in Section 16-13-31 of the Code of Alabama 1975;

(ii) Twenty Three Million Five Hundred Thousand Dollars (\$23,500,000) shall be expended on the completion and/or expansion of the McWane Educational Center provided, however, that upon receipt of the above funds and completion of such Center, it

shall be open to all K-12 school students of Jefferson County in school groups free of charge for the first two (2) years of operation;

(iii) Subject to the provisions of subsection 7 of this Section 4, Two Million Five Hundred Thousand Dollars (\$2,500,000) shall be expended to enhance the public libraries in Jefferson County;

(iv) Subject to the provisions of subsection 8 of this Section 4, Twenty Million Dollars (\$20,000,000) shall be expended on capital expenditures necessary to promote public safety in Jefferson County;

(v) Twenty Five Million Dollars (\$25,000,000) shall be expended on cultural projects and/or historic preservation projects in Jefferson County, Two Million Dollars (\$2,000,000) of which shall be specifically expended for capital improvements at the Alabama State Fair Grounds in Jefferson County, and the remainder of which shall be allocated to include but not be limited to, Vulcan, Rickwood Field, Fair Park, Alabama Theatre and Lyric Theatre;

(vi) Forty Million Dollars (\$40,000,000) shall be expended on the expansion of the Birmingham Zoo and/or development of a new zoo in Jefferson County;

(vii) Ten Million Two Hundred Fifty Thousand Dollars (\$10,250,000) shall be expended on the development of a greenway system consisting of dedicated bicycle and pedestrian trails in Jefferson County with the intent of the legislature being hereby specifically expressed that such system shall include the Bayview Lake area;

(viii) Twenty One Million Dollars (\$21,000,000) shall be expended on the development of a multi-purpose recreation/training center which shall be open to all citizens of Jefferson County and shall also provide a maximum of 1,500 square feet of office space for TEAM, Incorporated;

(ix) Two Hundred Eighty Million Dollars (\$280,000,000) shall be expended on (a) the development of a multi-purpose convention and entertainment facility which will provide approximately 200,000 square feet of convention and trade show space and have the capacity for viewing major sporting events, and (b) on the creation of a convention and entertainment district that will provide urban entertainment opportunities in the vicinity of the multi-purpose convention and entertainment facility;

(x) Twenty Million Dollars (\$20,000,000) shall be expended to provide parking, vehicular and pedestrian access and circulation, and security within the convention and entertainment district;

(xi) Eight Million Seven Hundred Thousand Dollars (\$8,700,000) shall be expended on the renovation and modernization of the existing Birmingham-Jefferson Civic Center;

(xii) Five Million Dollars (\$5,000,000) shall be expended on drug and gang prevention programs and treatment facilities in Jefferson county with priority given to fifth and seventh grade D.A.R.E. programs and to the youngest patients at treatment facilities and to include TEAM, Inc.; and

(xiii) Five Million Dollars (\$5,000,000) shall be expended on a community recreational park and facilities for children and adults located at Jefferson State Community College main campus.

(3) After the expenditure of the funds or provision is made by the board of directors of the corporation for the expenditure of the funds in subsections (a)(1) and (2) of this Section 4, payment of an amount not to exceed Seventy-Eight Million Dollars (\$78,000,000) into an account maintained by the corporation, the principal and income of which shall be expended on the operation and maintenance of the projects specified in subsections (a)(2)(ix), (x) and (xi) of this Section 4;

(4) After expenditure of the funds or provision is made by the board of directors of the corporation for the expenditure of the funds in subsections (a)(1),(2) and (3) of this Section 4, payment of an amount not to exceed Eighty-Nine Million Two Hundred Fifty Thousand Dollars (\$89,250,000) into an account maintained by the corporation, the principal and income of which shall be expended on any contingent costs that may arise in connection with constructing, acquiring, developing or equipping the projects funded in subsections (a)(2)(viii), (ix) and (x) of this Section 4 and on expenditures to promote public education or public safety in Jefferson County;

(5) After expenditure of the funds or provision for the expenditure of the funds in subsections (a)(1), (2), (3) and (4) of this Section 4, the remaining tax revenues shall be used for funding the exercise of any of the powers granted to the corporation under this amendment;

(6) Notwithstanding anything hereinabove in this Section 4 to the contrary, within thirty (30) days after the end of each fiscal year of the corporation, any such tax revenues which have not been expended pursuant to subsections (a)(1) and (2) of this Section 4 shall be paid into the accounts established under subsections (a)(3) and (4) of this Section 4 in such proportions as the board of directors of the corporation directs, or in the event such accounts have been fully funded in the amounts specified in such subsections (a)(3) and (4), into an account maintained by the corporation for the redemption of any bonds for which such tax revenues have been pledged at such times and in such manner authorized under the proceedings authorizing such bonds provided, however, that if at

the end of any such fiscal year, any of the projects provided for in subsection (a)(2) of this Section 4 have not been fully funded, the corporation may within such thirty (30) day period by resolution of its board of directors reserve for the payment of the costs of any such unfunded projects, any revenues that would otherwise be payable to one of the accounts referenced herein;

(7) The funds to be expended to enhance the public libraries in Jefferson County pursuant to subsection (a)(2) of this Section 4 shall first be expended to insure that every public library in Jefferson County has the capability to participate in the virtual library system. Any funds remaining after such expenditure shall be divided among the municipal public libraries in Jefferson County on the basis of the most recent projected U.S. census count.

(8) Two Million Five Hundred Thousand (\$2,500,000) of the funds to be expended on capital expenditures necessary to promote public safety in Jefferson County pursuant to subsection (a)(2) of Section 4 of this amendment shall be allocated in the following manner:

(i) Thirty-two percent (32%) of such amount shall be allocated in a proportionate amount among all of the volunteer fire departments and fire districts in Jefferson County which proportion shall be based on the number of rooftops in each such department or district. For the purposes hereof, rooftops shall be deemed to mean any occupied dwellings or occupied business or industrial business or public buildings excluding tool sheds and other ancillary structures thereto;

(ii) Forty-eight percent (48%) of such amount shall be allocated in a proportionate amount among all of the volunteer fire departments and fire districts in Jefferson County who are members of the Jefferson County Association of Fire Departments, which proportion shall be based on the number of fire stations that are in each such department or district; and

(iii) Twenty percent (20%) of such amount shall be allocated to the Emergency Management Agency of Jefferson County.

When expending the funds allocated to the projects specified in subsection (a)(2) of this Section 4, the corporation shall have the authority to determine in its sole discretion the priority of the funding of each of such projects, which shall include the authority to give priority to the payment of debt service on any bonds to which such tax revenues have been pledged, and shall be subject to no limitations of time during which it must or shall be entitled to expend the funds on any one or more of such projects.

Any revenues paid into the account created for the redemption of bonds under subsection (a)(6) of this Section 4 shall be invested

in a manner that does not violate any federal laws related to tax exempt bonds. If at any time funds otherwise available for the payment of debt service on bonds for which such tax revenues have been pledged are insufficient to pay such debt service, the corporation may by resolution of its board of directors withdraw funds from such redemption account and apply such funds towards payment of any such debt service.

(b) The corporation shall delegate its responsibility for expending the funds allocated under subsection (a)(1)(ii) of this Section 4 to Discovery 2000, Inc., an Alabama corporation, which it is hereby given specific authority to do. The delegation of such responsibility shall include making provision for the payment of the funds allocated such project hereunder to or on behalf of Discovery 2000, Inc. for expenditures directly related to carrying out the responsibility delegated to it hereunder. The corporation may take such action as is necessary to ensure that such funds are spent only for such purposes and may exercise any of its powers necessary to support Discovery 2000, Inc. in carrying out the responsibilities delegated to it hereunder, provided, however, that the corporation shall have no liability for any failure by Discovery 2000, Inc. to carry out such responsibilities or for any other act or omission of Discovery 2000, Inc.

(c) The corporation shall delegate its responsibility for expending the funds allocated under subsections (a)(2)(viii), (ix), (x) and (xi) of this Section 4 to the Birmingham-Jefferson Civic Center Authority, which it is hereby given specific authority to do. The delegation of such responsibility shall include making provision for the payment of the funds allocated to such projects hereunder to or on behalf of the Birmingham-Jefferson Civic Center Authority for expenditures directly related to carrying out the responsibility delegated to it hereunder. The corporation may take such action as is necessary to ensure that such funds are spent only for such purposes and may exercise any of its powers necessary to support the Birmingham-Jefferson Civic Center Authority in carrying out the responsibilities delegated to it hereunder, provided, however, that the corporation shall have no liability for any failure by the Birmingham-Jefferson Civic Center Authority to carry out such responsibilities or for any other act or omission of the Birmingham-Jefferson Civic Center Authority. The corporation shall also have the power to delegate its powers to the Birmingham-Jefferson Civic Center Authority for the purpose of allowing the Birmingham-Jefferson Civic Center Authority to carry out the responsibilities delegated to it hereunder and all acts done by the Birmingham-Jefferson Civic Center Authority pursuant to any authority specifically delegated to it by the corporation, including, without limitation, the performance of any management contract or

other agreement pertaining to the operation of any such projects heretofore or hereafter entered into by the Birmingham-Jefferson Civic Center Authority, are hereby in all things validated and confirmed, any provision or provisions of the Constitution of Alabama 1901, or Act No. 65-547, as amended, or any others laws of the state to the contrary notwithstanding.

(d) Any board, agency or corporation created or authorized hereunder are prohibited from making any financial or in kind contribution to any political campaign or political organization.

Section 5. Repeal of Sales Tax. At such time as (1) all of the projects specified in subsection (a)(2) of Section 4 of this amendment have been fully funded in the specified amounts, (2) the accounts established under subsections (a)(3) and (4) of Section 4 of this amendment have been fully funded in the specified amounts, and (3) sufficient funds have been paid into the redemption account established under subsection (a)(6) of Section 4 of this amendment to fully redeem any bonds for which the tax revenues payable under Sections 1 and 2 of this amendment have been pledged, the corporation's board of directors shall promptly adopt a resolution declaring the occurrence of all such events and deliver such resolution to the Director of Revenue of Jefferson County, and upon the delivery of such resolution, the portion of the sales and use tax imposed in Jefferson County under Section 1 of this amendment which is allocated to the corporation established under Section 3 of this amendment shall be repealed effective the first day of the calendar month succeeding the date of the Director of Revenue's receipt of such resolution.

Section 6. Provisions of this Amendment Control. The actions and authority conferred by this constitutional amendment, specifically including, without limitation, the taxes authorized to be levied hereby and the powers granted to the corporation established under Section 3 of this amendment are in all things validated and confirmed, any provision or provisions of the Constitution of Alabama 1901 or any other laws of the state to the contrary notwithstanding, and to the extent that the provisions of this amendment may be inconsistent with provisions of any other provision or provisions of the Constitution of Alabama 1901 or any other laws of the state, specifically including, without limitation, Sections 93, 94 or 225 of the Constitution of Alabama 1901, as amended, the provisions of this amendment shall control.

Section 7. Effective Date. The actions and authority conferred by this constitutional amendment shall be self-executing in the event this amendment is duly adopted at the election required by the act in which this amendment is proposed provided that the effective date of the taxes levied hereunder shall be the first day of the second calendar month following such adoption."

Section 8. Effect Upon Gaming Rights. Nothing in this amendment will be deemed to authorize, legalize, or otherwise affect the right to conduct video gaming, casino gambling, a lottery, or any form of gambling.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama 1901, and the general election laws of this state. Whether this amendment is to be voted on as a local constitutional amendment under subsection (a) of Amendment 555 or is to be voted on as a statewide constitutional amendment under subsection (e) of Amendment 555, such local election or such statewide election upon the proposed amendment, as the case may be, is ordered to be held on August 4, 1998.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Jefferson County, proposing an amendment to the Constitution of Alabama of 1901 to levy a one percent (1%) general sales and use tax, a one-eighth of one percent (1/8%) sales and use tax on automotive vehicles and two percent (2%) lodgings tax in Jefferson County, to provide for the expenditure of the proceeds of such taxes, and to authorize the establishment of a public corporation that will be responsible for the receipt and expenditure of the proceeds of such taxes as specifically provided in said amendment.

Proposed by Act _____”

This description shall be followed by the following language:

“Yes () No ().’

CONSTITUTIONAL AMENDMENT

Passed the Senate January 27, 1996

Passed the House as amended February 24, 1998

Senate concurred in House Amendment March 3, 1998

Act No. 98-128

S. 166 – Senator McClain

AN ACT

To provide that the operator of a racetrack in a Class 1 municipality (a “Class 1 racetrack”) shall be entitled to retain a uniform commission or “takeout” from pari-mutuel pools wagered by bettors present at a Class 1 racetrack in an amount equal to 25% of the total amount of each pari-mutuel pool wagered at such Class 1 racetrack on live horse or greyhound racing events or on horse or greyhound racing events conducted at other locations and received by television at such Class 1

municipality, notwithstanding certain provisions of Sections 11-65-28 and 40-26A-2 of the Code of Alabama 1975, subject, however, to the adjustment of the takeout at a Class 1 racetrack for participation in combined pari-mutuel pools that involve bettors at other locations and that are administered by the racetrack operator conducting the racing events that are transmitted by television to the Class 1 racetrack.

Be It Enacted by the Legislature of Alabama:

Section 1. Modification of Takeout for All Racing Events. In order to provide a uniform takeout for pari-mutuel wagering on racing events that reflects the competitive pressure on pari-mutuel wagering from other forms of gambling in surrounding states, and to enable any racetrack in a Class 1 municipality (a "Class 1 racetrack") to maximize its participation in combined pools with other racetracks both inside and outside the State of Alabama, the Legislature hereby finds and determines that it is necessary and desirable to authorize the uniform takeout hereinafter provided for pari-mutuel pools wagered by bettors present at a Class 1 racetrack, notwithstanding the provisions of Sections 11-65-28 and 40-26A-2 of the Code of Alabama 1975, which sections are hereby superseded to the extent that their provisions purport to govern the takeout at a Class 1 racetrack in a manner inconsistent with the provisions of this act. Subject to the continued effectiveness of the provisions of Act No. 97-190 enacted at the 1997 Regular Session of the Legislature of Alabama, including particularly those provisions related to adjustment of the takeout for combined pools, the total takeout allowed to the racing operator of a Class 1 racetrack for all pari-mutuel pools wagered at such racetrack on live horse or greyhound racing events conducted at such racetrack and for all pari-mutuel pools wagered at such racetrack on horse or greyhound racing events conducted elsewhere and received by television at such racetrack, before deducting any state or local wagering taxes or fees, shall be twenty-five percent (25%) of the total amount wagered in such pools by bettors present at the Class 1 racetrack, irrespective of the number or combination of racing contestants selected by the bettors.

Section 2. Severability of Provisions. The provisions of this act shall be severable, and the invalidation of any particular provision by a court of competent jurisdiction shall not impair or invalidate the remaining provisions thereof.

Section 3. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on March 4, 1998 without approval by the Governor.

Act No. 98-129

S. 302 – Senator Steele

AN ACT

Relating to Perry County; authorizing the county commission to levy an additional issuance fee on motor vehicles, tractor trailers, manufactured homes, mobile homes, and watercraft licenses and decals; providing for the collection, distribution, and use of the proceeds of the fees; creating a separate fund to receive the fees; and prescribing additional duties on the Perry County Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Perry County.

Section 2. The County Commission of Perry County may in addition to all other charges, costs, taxes, or fees levied on the issuance of all motor vehicle, manufactured homes, mobile homes, and tractor trailers of any nature levy a fee of up to ten dollars (\$10) per license plate or decal. The county commission may also levy a user fee of up to five dollars (\$5) for each license plate or decal issued for all watercraft nor more than 16 feet in length and a user fee of up to ten dollars (\$10) for any watercraft more than 16 feet in length. The collection of this fee may be levied on the first day of the month following the passage of this act and approval by the Governor, or its otherwise becoming law and continuing and shall apply to any motor vehicle, manufactured home, mobile home, tractor trailer, or watercraft subject to registration or transfer of ownership.

Section 3. All funds received from the fees authorized by this act shall be placed in a special fund in the county treasury to be called the Debt Reduction Fund. All funds deposited in the Debt Reduction Fund shall be used to reduce any general fund debt of the county.

Section 4. This act shall become effective immediately on the first day of the month after passage and approval by the Governor or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on March 4, 1998 without approval by the Governor.

Act No. 98-130

S. 44 – Senator Clay

AN ACT

To amend Act No. 96-649 enacted at the 1996 regular session of the Legislature of Alabama by repealing the schedule of takeouts established by said act for pari-mutuel pools wagered at the Macon County racetrack and providing in lieu thereof a uniform takeout to be retained by the racing operator that is equal to 25% of the total amount of each pari-mutuel pool wagered at the Macon County racetrack

on live greyhound racing events or on horse or greyhound racing events conducted at other locations and received by television at the Macon County racetrack, notwithstanding certain provisions of Section 40-26A-2 of the Code of Alabama 1975, subject, however, to the adjustment of the takeout at the Macon County racetrack for participation in combined pari-mutuel pools that involve bettors at other locations and that are administered by the racetrack operator conducting the racing events that are transmitted by television to the Macon County racetrack.

Be It Enacted by the Legislature of Alabama:

Section 1. Amendment of Section 4 of Act No. 96-649. Section 4 of Act No. 96-649 enacted at the 1996 regular session of the Legislature of Alabama is hereby amended to read as follows:

“Section 4. Provisions Respecting Takeout for Racing Events. In order to provide a uniform takeout for pari-mutuel wagering on live greyhound racing events and on horse or greyhound racing events that are conducted elsewhere and received by television at the Macon County racetrack, and to enable the Macon County racetrack to maximize its participation in combined pools with other racetracks both inside and outside the State of Alabama, the Legislature hereby finds and determines that it is necessary and desirable to authorize the uniform takeout hereinafter provided for pari-mutuel pools wagered by bettors present at the Macon County racetrack, notwithstanding the provisions of Section 40-26A-2 of the Code of Alabama 1975, which section is hereby superseded to the extent that its provisions purport to govern the takeout at the Macon County racetrack in a manner inconsistent with the provisions of this act. Subject to the provisions of Section 2 of this act (i.e., Act No. 96-649) relating to adjustment of the takeout for combined pools, the total takeout allowed to the racing operator of the Macon County racetrack for all pari-mutuel pools wagered at such racetrack on live greyhound races conducted at such racetrack and for all pari-mutuel pools wagered at such racetrack on televised horse or greyhound racing events received at such racetrack, before deducting any state or local wagering taxes or fees, shall be twenty-five percent (25%) of the total amount wagered in such pools by bettors present at the Macon County racetrack, irrespective of the number or combination of racing contestants selected by the bettors.”

Section 2. Severability of Provisions. The provisions of this act shall be severable, and the invalidation of any particular provision by a court of competent jurisdiction shall not impair or invalidate the remaining provisions thereof.

Section 3. Effective Date. This act shall become effective immediately upon its passage and approval by the governor of the state or upon its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on March 4, 1998 without approval by the Governor.

Act No. 98-131

H. 221 – Rep. Jackson

AN ACT

Relating to Conecuh County; authorizing the county commission to levy, and repeal after the levy, an additional sales and use tax; providing for the collection, distribution, and use of the proceeds of the tax; and prescribing penalties and fixing punishment for violation of this act. WHEREAS, there exists in Conecuh County, what could realistically be termed an extremely limited tax base; and WHEREAS, within the last five months, two major companies and employers in the county have closed their doors resulting in a further loss of tax base within the county; and WHEREAS, in the near future, a new plant will be relocating to Conecuh County; a plant that will initially employ 150 residents and which in the second phase will employ 400 county residents; and WHEREAS, in order to entice this important industry to locate within the county, the county commission had to provide certain incentives; the incentives included making a large investment in real property which involved having to borrow sufficient funds for the purchase of the real property; and WHEREAS, without sufficient revenue for payment of the debt service, certain county services will be either terminated or curtailed to the point that a critical situation will exist; now therefore,

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Conecuh County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Conecuh County may levy, and repeal after the levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one cent privilege license tax against gross sales or gross receipts.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by this act shall be collected by the State Department of Revenue at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied by this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the

time of filing the report. All reports filed with the department under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied by this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied by this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied by this act shall constitute a debt due Conecuh County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department may employ special counsel as is necessary to enforce collection of the tax levied by this act and to enforce this act. The department shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Conecuh County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied under this act. The State Commissioner of Revenue and the department shall have and exercise the same powers, duties, and obligations with respect to the tax levied under this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied under this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department shall charge Conecuh County for collecting the tax levied under this act in an amount or percentage of total collections as may be agreed upon by the commissioner and the

Conecuh County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Conecuh County for that month. The Commissioner of Revenue shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department on or before the first day of each successive month. The commissioner shall certify to the State Comptroller the amount collected and paid into the State Treasury for the benefit of Conecuh County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable to the County Treasurer of Conecuh County in an amount equal to the certified amount which shall be paid into the county general fund to be used for county debt service and general county purposes.

Section 9. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on March 4, 1998 without approval by the Governor.

Act No. 98-132

H. 197 – Reps. Allen, Clouse, Gaston, Gipson, Hooper, Hill, Hawkins, Wren, Laird, Sanderford, Sanderson, Papucci, McMillan, McKee, Haney, Melton, Letson, Dean, Hayden, Knight (A), Carter, Payne, Black (M), Carns, Murphrcc, Guin, Morrow, Morrison, Thomas (D), Galliher, Rogers (M), Pringle, Gaines, Dukes, Hall (L), Drake, Ford, Parker (T), Newton (C), Venable, Flowers, Collins, Spratt, McAdory, Perdue, Hilliard, Graham, Lindsey, Baker, Robinson, Vance, Willis, Boyd and Crigler

AN ACT

Relating to athlete agents; to amend Sections 8-26-2, 8-26-3, 8-26-7, 8-26-14, 8-26-15, 8-26-22, 8-26-27, and 8-26-41, Code of Alabama 1975; to define student-athlete; to provide for appointments to the commission; to provide reporting requirements

of the Secretary of State to the commission; to further provide the requirements of granting or renewing registrations; to increase the amount of bonds; to provide for distribution of proceeds of bonds for any violations; to require notice to a college or university of a signing of a contract or receiving in-kind benefits; to create contract requirements; to allow civil actions by colleges or universities for certain actions of the athlete agent and student-athlete; to further provide for business and financial records of athlete agents and penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature finds that dishonest or unscrupulous practices by agents who solicit representation of student-athletes can cause significant harm to student-athletes and the academic institution for which they play. It is the intent of the Legislature to protect the interests of student-athletes and academic institutions by regulating the activities of athlete agents.

Section 2. Sections 8-26-2, 8-26-3, 8-26-7, 8-26-14, 8-26-15, 8-26-22, 8-26-27, and 8-26-41, Code of Alabama 1975, are amended to read as follows:

“§8-26-2.

“For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed in this section:

“(1) **AGENT CONTRACT.** Any contract or agreement pursuant to which an athlete authorizes or empowers an athlete agent to negotiate or solicit on behalf of the athlete with one or more professional sports teams for the employment of the athlete by one or more professional sports teams, or to negotiate or solicit on behalf of the athlete for the employment of the athlete as a professional athlete.

“(2) **ATHLETE.** A student-athlete or any person who is employed or seeks to be employed under a professional sports services contract with a professional sports team or as a professional athlete.

“(3) **ATHLETE AGENT.** Any person who, as an independent contractor, directly or indirectly, recruits or solicits any athlete to enter into any agent contract or professional sports services contract, or for a fee procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete. Athlete agent shall include any member of the State Bar of Alabama or other jurisdictions when advising athlete clients and when attempting to negotiate a professional sports services contract for a client. Other than for the licensing purposes, athlete agent also includes any agent, subagent, employee, or runner of an athlete agent who receives compensation directly or indirectly to recruit any athlete to enter into any contract or

negotiates any contract or for a fee, procures, offers, promises, or attempts to obtain employment for any athlete with a professional sports team or as a professional athlete. Athlete agent does not include any employee or other representative of a professional sports team.

“(4) COMMISSION. The Alabama Athlete Agent Regulatory Commission created by Section 8-26-3.

“(5) PERSON. Any individual, company, corporation, association, partnership, or their agents or employees.

“(6) PLAYER ASSOCIATIONS or ORGANIZATIONS. Any association or organization which represents professional athletes in collective bargaining with management of professional sports teams.

“(7) PROFESSIONAL SPORTS SERVICES CONTRACT. Any contract or agreement pursuant to which an athlete is employed or agrees to render services as a player on a professional sports team or as a professional athlete.

“(8) STUDENT -ATHLETE. Any one of the following:

“a. A student who resides in Alabama and has informed, in writing, a college or university of the student’s intent to participate in that school’s intercollegiate athletics program and is eligible to do so.

“b. A student who does not reside in Alabama, but has informed, in writing, a college or university in Alabama of the student’s intent to participate in that school’s intercollegiate athletics, or who does participate in that school’s intercollegiate athletics program and is eligible to do so.

“c. A student who is enrolled and participates in a sport at a secondary school, college, or university.

“§8-26-3

“(a) There is created a commission for the regulation of athlete agents in the State of Alabama to be known as the Alabama Athlete Agent Regulatory Commission (hereinafter the “commission”) consisting of 19 members. The commission shall consist of the Secretary of State and 14 members to be appointed as follows:

“(1) The Governor shall appoint one commission member.

“(2) The Lieutenant governor shall appoint one commission member.

“(3) The Speaker of the House shall appoint one commission member.

“(4) The athletic directors at Alabama institutions of higher education participating in the following conferences shall jointly appoint one commission member to represent each of the following:

- “a. Auburn University System, Southeastern Conference.
- “b. University of Alabama System, Southeastern Conference.
- “c. University of South Alabama, Sunbelt Conference.
- “d. Alabama State University, South Western Athletic Conference.
- “e. Alabama A & M University, Southern Intercollegiate Athletic Conference.
- “f. Tuskegee University, Southern Intercollegiate Athletic Conference.
- “g. Troy State University, Mid Continental Conference Independent Football IAA.
- “h. Jacksonville State University, Transcontinental America Conference/Southland.
- “i. University of North Alabama, Conference of the Gulf South Division.
- “j. University of West Alabama, Gulf South Conference.
- “k. Miles College, Southern Intercollegiate Athletics Conference.
- “l. University of Montevallo, South States Conference.
- “m. University of Alabama, Huntsville, Independent Gulf South Conference.
- “n. University of Alabama at Birmingham, Conference USA.

“(5) The Alabama High School Athletic Association shall collectively appoint one commission member.

“All appointed members of the commission shall be citizens of the United States and residents of Alabama. The term of each appointed commission member shall be for a period of three years and appointed commission members may be eligible for reappointment, subject to this chapter. If a vacancy occurs on the commission, the one who originally appointed the vacated member shall appoint a successor who shall take office immediately and serve the remainder of the unexpired term. The commission members and their successors shall have and exercise all the powers and authority vested by law in the commission.

“(b) The effective date of all appointments shall be January 1, 1988, except the effective date of appointments for members from Miles College, University of Alabama, Huntsville, University of

Alabama at Birmingham, and the University of Montevallo shall be January 1, 1998.

“(c) Within 15 days after their appointment, the members of the commission shall take an oath before any person lawfully authorized to administer oaths in this state to faithfully and impartially perform their duties as members of the commission, and the same shall be filed with the Secretary of State.

“(d) The Governor shall remove from the commission any appointed member for neglect of duty or other just cause.

“(e) The commission shall elect annually a chairperson, a vice-chairperson, and a secretary-treasurer from its members.

“(f) A majority of the commission shall constitute a quorum for the transaction of business.

“(g) The Secretary of State shall keep records of the commission’s proceedings; and, in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of those records certified as correct by the Secretary of State shall be admissible in evidence as tending to prove the content of the records.

“(h) The Secretary of State shall have printed and published for distribution an annual register which shall contain the names, arranged alphabetically, of all persons registered under this chapter. The Secretary of State shall also provide a quarterly report to the commission of all agents registered during the quarter, any suspension or revocation of registered agents during the quarter, and other disciplinary action taken against an agent.

“(i) The Secretary of State may employ such personnel and arrange for such assistance, service and supplies as it may require for the performance of the duties of the commission.

“(j) The commission may promulgate, and from time to time amend rules and standards of conduct for athlete agents appropriate for the protection of the residents of the state. At least 60 days prior to the promulgation of any such rule or amendment, the Secretary of State shall mail copies of the proposed rule or amendment to all persons registered under this chapter, with a notice advising them of the proposed effective date of the rule or amendment and requesting that they submit advisory comments thereon at least 15 days prior to the effective date. Failure to receive by mail a rule, amendment, or notice by all persons registered under this chapter shall not affect the validity of any such rule or amendment.

“(k) Except for the Secretary of State, each member of the commission shall be paid fifty dollars (\$50) for each day the member is actively engaged in the discharge of official duties as a member of

the commission, and the member shall also be paid actual necessary expenses incurred in the discharge of official duties.

“§8-26-7.

“(a) The commission, by a majority of its members present and voting, may refuse to grant or renew a registration upon proof that the applicant or his or her representative committed any of the following acts:

“(1) Has made false or misleading statements of a material nature in his or her application for registration.

“(2) Has ever misappropriated funds, or engaged in other specific acts such as embezzlement, theft, or fraud, which would render him or her unfit to serve in a fiduciary capacity.

“(3) Has engaged in such other conduct that significantly impacts adversely on his or her credibility, integrity, or competence to serve in a fiduciary capacity.

“(4) Has engaged in conduct which violates or causes a student-athlete to violate any rule or regulation promulgated by an intercollegiate sports governing body.

“(5) Is unwilling to swear or affirm that he or she will comply with the rules and standards of conduct for athlete agents as may from time to time be promulgated by the commission.

“(6) Has failed to include the agent’s name in any advertising relating to the business of an athlete agent. Advertising shall not include clothing or novelty items.

“(7) Has published or caused to be published false or misleading information or advertisements, or given any false information or making false promises to a student-athlete concerning employment or financial services.

“(8) Has offered anything of value to any person to induce a student-athlete to enter into an agreement by which the agent will represent the student-athlete. However, negotiation regarding the agent’s fee shall not be considered an inducement.

“(9) Has accepted as a client a student-athlete referred by, or in exchange for, any consideration made to an employee of, or a coach for, a college or university.

“(10) Has committed mismanagement or misconduct as an agent which causes financial harm to a student-athlete or college or university.

“(11) Has sent a student-athlete written materials without simultaneously sending an identical copy of such written materials

to the athletics director, or the director's designee, of the college or university in which the student-athlete is enrolled or to which the student-athlete has provided written intent to participate in intercollegiate athletics.

"(12) Has otherwise contacted a student-athlete without the student-athlete having first initiated the contact with the athlete agent and the athlete agent having given prior notice to the college or university in which the student-athlete is enrolled or to which the student-athlete has provided a written intent to participate in intercollegiate athletics.

"(13) Has engaged in conduct which results in an athlete losing eligibility to participate in intercollegiate athletics as a member of a sports team of an institution of higher education.

"(b) If the commission refuses to grant or renew a registration, notice of the refusal shall be sent by the Secretary of State by registered mail or personal service to the applicant. The notice shall set forth the particular reasons for the refusal and shall set a date not less than 30 days nor more than 60 days from the date of the mailing or service, at which time the applicant shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the applicant's last known address. The failure of the applicant to appear shall not prevent the commission from conducting a hearing. The hearing shall be conducted by the commission by means of sworn, recorded testimony. Parties shall have the right to be represented by counsel and to conduct cross-examination of witnesses.

"(c) On the basis of any hearing or upon default of applicant, the commission shall make a determination specifying its findings of fact and conclusions. A copy of the determination shall be sent by the Secretary of State by registered mail or served personally upon the applicant. The decision of the commission denying the registration shall become final 30 days after being mailed or served unless within that period the applicant appeals the decision to the courts of this state in the same manner and subject to the same powers and conditions as now provided by law in regard to rulings, orders, and findings of other quasi-judicial bodies in Alabama. No appeal, while pending appropriate court action, shall supersede a denial. All proceedings and evidence, together with exhibits presented at the hearings before the commission are admissible in evidence in the court.

"(d) Every order and judgment of the commission shall take effect immediately on its promulgation unless the order or judgment fixes a probationary period for applicant. An order and judgment shall continue in effect unless the courts by proper order or

decree terminate it. The commission may make public its orders and judgments in any manner and form it deems proper.

“§8-26-14.

“(a) An athlete agent shall deposit with the Secretary of State prior to the issuance of a registration or renewal of a registration, a surety bond in the penal sum of one hundred thousand dollars (\$100,000).

“(b) For the purposes of this chapter, a certificate from an insurance carrier stating that malpractice coverage in the minimum amount of one hundred thousand dollars (\$100,000) is in place shall be considered equivalent to a surety bond. Evidence that such coverage is in full force and effect shall be presented to the Secretary of State upon such terms and conditions as the commission may prescribe.

“(c) For the purposes of this chapter, a certificate of deposit payable to the Secretary of State, or a savings account assigned to the Secretary of State, in the amount of one hundred thousand dollars (\$100,000) shall be considered equivalent to a surety bond, and shall be acceptable to the commission upon such terms and conditions as it prescribes.

“§8-26-15.

“(a) Surety bonds shall be payable to the people of the State of Alabama, and shall be conditioned that the person applying for the registration will comply with this chapter and will pay all sums due any athlete or group of athletes when the person or his or her representative or agent has received such sums, and will pay all damages occasioned to any athlete, university or college, or the State of Alabama by reason of intentional or unintentional misstatement, misrepresentation, fraud, deceit, or any unlawful or negligent acts or commissions or omissions of the registered athlete agent, or his or her representatives or employees, while acting within the scope of their employment.

“(b) Nothing in this section shall be construed to limit the recovery of damages to the amount of the surety bond, malpractice coverage, certificate of deposit, or savings account.

“(c) Any payment on a surety bond to a college or university or to the state shall be distributed equally to the institution and the state.

“§8-26-22.

“(a) Except as otherwise provided in this section, any and all contracts to be utilized by athlete agents shall be on a form approved by the commission. This approval shall not be withheld as to any proposed form of agent contract unless the proposed form of agent contract is

unfair, unjust, and oppressive to the athlete. Each form of agent contract, except under the conditions specified in Section 826-39, shall contain an agreement by the athlete agent to refer any controversy between the athlete and the athlete agent relating to the terms of the agent contract to the commission for adjustment. There shall be printed on the face of the agent contract in prominent type the following: "This athlete agent is registered with the athlete agent regulatory commission of the State of Alabama. Registration does not imply approval by the commission of the terms and conditions of this contract or the competence of the athlete agent."

"(b) An athlete agent physically present on a campus or university for the purpose of recruiting any student-athlete to enter into any contract or negotiating any contract shall register with the athletic director or the president.

"(c) A student-athlete who is subject to the rules and regulations of an intercollegiate sports governing body, who has not completed his or her last intercollegiate contest, including postseason games, for the applicable sport, and who knowingly and willingly negotiates for, or enters into an oral or written agent contract with an athlete agent or a contract pursuant to which a student-athlete is employed as a professional athlete, or accepts any monetary or in-kind benefit from an athlete agent shall notify the athletic director or the president of the college or university in which he or she is enrolled and the commission that he or she has commenced negotiations or entered into a contract or has accepted such benefits. Written notification of negotiation or entering into a contract, regardless of the legal enforceability of such contract under this chapter or any other provision of law, or accepting any benefits from an athlete agent shall be given before practicing for or participating in an athletic event on behalf of a college or university within 72 hours after commencing negotiations or entering into the contract, whichever occurs first. A student-athlete who fails to provide this notification is guilty of a Class A misdemeanor, and, in addition, is subject to a fine of not more than one thousand dollars (\$1,000) and shall perform a minimum of 70 hours of community service.

"(d) An athlete agent who negotiates or enters into an oral or written agent contract with a student-athlete or provides any monetary or in-kind benefits to a student-athlete who is subject to the rules and regulations of an intercollegiate sports governing body shall notify the athletic director or the president of the college or university in which the student-athlete is enrolled and the commission that the athlete agent negotiated or has entered into a contract or has provided monetary or in-kind benefits to a student-athlete. Written notification of the contract, regardless of the legal enforceability of such contract under this chapter or any

other provision of law, or accepting any benefits from an athlete agent shall be given before the student-athlete practices for, or participates in, an athletic event on behalf of a college or university or within 72 hours after entering into the contract or providing such benefits, whichever occurs first.

“(e) An agent contract between a student-athlete and an athlete agent shall have a notice printed near the space for the student-athlete’s signature which shall contain the following statement in ten-point bold face type:

“**“WARNING: IF YOU AS A STUDENT-ATHLETE SIGN THIS CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. PURSUANT TO ALABAMA LAW, YOU ARE REQUIRED TO NOTIFY THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY AND THE ALABAMA ATHLETE AGENT REGULATORY COMMISSION IN WRITING BEFORE PRACTICING FOR, OR PARTICIPATING IN, AN ATHLETIC EVENT ON BEHALF OF A COLLEGE OR UNIVERSITY OR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, WHICHEVER OCCURS FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE.**

“**“DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE ATHLETICS.”**

“(f) An agent contract which does not meet the requirements of subsections (a) and (e) is void and unenforceable.

“(g) Postdating of agent contracts is prohibited, and a postdated contract is void and unenforceable. Subsections (c) and (d) of this section are applicable to postdated contracts even though such contracts may be void and unenforceable. Execution of a postdated contract is a violation of this section, and an athlete agent committing the violation is subject to the penalty provisions of Section 8-26-41. A student-athlete committing the violation is subject to the penalty provisions of subsection (c).

“(h) Within 15 days after the date on which the contractual relationship between the athlete agent and the student-athlete arises or after notification of the contractual relationship is received by the

athletic director or president of the college or university in which the student is enrolled and the commission, whichever occurs later, the student-athlete has the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his or her intent to rescind. The rescission is effective upon repayment by the student-athlete to the athlete agent of any monetary amounts paid to the student-athlete by the athlete agent, exclusive of travel, lodging, meals, and entertainment, or reimbursement for these items, furnished by the athlete agent to the student-athlete. The student-athlete may not effect a waiver of his or her right to rescind, and an attempt to do so is prohibited and unenforceable.

“(i) A student-athlete or athlete agent who negotiates or enters into an agent contract or accepts any monetary or in-kind benefits and fails to provide the notification required by this section is liable for actual damages to the college or university in which the student-athlete is enrolled that results from the student-athlete’s subsequent ineligibility.

“(j) For purposes of subsection (i), a college or university suffers actual damages if, because of activities of the person, the college or university is penalized or is disqualified or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics, by an intercollegiate athletic conference, or by self-imposition and, because of that penalty, disqualification, or suspension, one of the following occurs to the institution:

“(1) Loses revenue from media coverage of a sports contest.

“(2) Loses the right to grant an athletic scholarship.

“(3) Loses the right to recruit an athlete.

“(4) Is prohibited from participating in postseason athletic competition.

“(5) Forfeits an athletic contest

“(6) Suffers an adverse financial impact.

“(k) An institution that prevails in a suit brought under this section may recover the following:

“(1) Actual damages.

“(2) Punitive damages.

“(3) Court costs.

“(4) Reasonable attorney’s fees.

“(1) In actions seeking relief under this section, the claim shall not have been considered as having accrued until the discovery by

the aggrieved college or university of the alleged violation by the student-athlete or the athlete agent after which the college or university shall have two years to bring an action.

“§8-26-27.

(a) An athlete agent who is registered and engages in the business as a agent shall establish and maintain complete financial and business records. The agent shall save entry into a financial or business record for at least four years from the date of entry.

“(b) The commission shall have access to and shall have the right to inspect and examine the financial or business records of an athlete agent during normal business hours. Refusal or failure of an athlete agent to provide the commission access to financial and business records shall be the basis for disciplinary action by the commission.”

“(c) The commission may exercise subpoena power to obtain the records of the athlete agent.

“§8-26-41.

“Except as otherwise provided in this chapter, any person, or agent or officer thereof, who violates any provision of this chapter shall be guilty of a Class B felony and, in addition, shall be subject to a fine of not more than five thousand dollars (\$5,000).”

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 5, 1998

Time: 4:30 P.M.

Act No. 98-133

H. 321 – Rep. Hawkins

AN ACT

Relating to Jefferson County; to amend Section 1 of Act 87-790, 1987 Special Session (Acts 1987, p. 1550), to provide further for compensation and benefits for the executive assistant to the sheriff of Jefferson County.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 87-790, 1987 Special Session (Acts 1987, p. 1550), is amended to read as follows:

“Section 1. The executive assistant to the Sheriff of Jefferson County shall receive all of the following:

“(a) A salary in the same amount as a person classified as captain employed by the Jefferson County Sheriff’s Department.

“(b) The educational incentives paid to a sworn deputy with a four year college degree and all other benefits received by a sworn deputy.

“(c) Any uniform or clothing allowance as provided by resolution of the Jefferson County Commission.”

Section 2. This act shall become effective on its passage and approval by the Governor, or its otherwise becoming law.

Approved March 6, 1998

Time: 12:45 P.M.

Act No. 98-134

S. 17 – Senator Freeman

AN ACT

To provide for a salary increase for certain state employees for the fiscal year beginning October 1, 1998.

Be It Enacted by the Legislature of Alabama:

Section 1. Beginning with the first pay day on or after October 1, 1998, all state employees who are listed in the classified and unclassified service of the state as defined in Section 36-26-10, Code of Alabama 1975, and all other state employees and hourly employees of the state, except those set out in Section 2 of this act, and all legislative personnel, officers, and employees, including, but not limited to, Legislative Reference Service personnel, whether subject to the state merit system or not, and all circuit clerks and state judges, except as provided in Section 2 of this act, and all employees of the county health departments who are employed subject to the state merit system and whose compensation is paid out of a budget provided and agreed upon by the state, county, or other contributing agency under the direction of the State Board of Health, shall receive an eight percent salary increase.

Any cost-of-living increase granted under this act shall in no way apply to any local supplement provided to any judges or any other employee of this state. The provisions of this act shall not apply to or increase the compensation of any local employee whose salary is tied to that of any state employee. The increase shall be in addition to the salary received by an employee. It is the intention of the Legislature that the Governor transfer such amounts to, from, and between departments, boards, bureaus, commissions, agencies, offices, and

institutions under the direct control of the Governor for the purpose of paying the salary increase for state employees and officials.

Section 2. This act shall not apply to any merit system employee or hourly employee whose service or rate of pay is covered by any labor agreement or contract, nor shall this act apply to a state judge whose salary is payable from the State Treasury if the salary of the judge is increased under and by virtue of any of the following:

(1) The recommendations contained in the report of the Judicial Compensation Commission to the 1998 Regular Session of the Legislature becoming law.

(2) The enactment into law of legislation altering and amending the report.

(3) Any other legislation enacted into law during the 1998 Regular or 1998 Special Sessions of the Legislature.

Section 3. The Director of the State Personnel Department shall revise the schedule of rates set forth in the pay plan for state employees and shall certify the same to the State Comptroller, who shall issue warrants in accordance therewith. With respect to all court officials and employees within the Unified Judicial System who serve the trial and appellate courts of the state and the Administrative Office of Courts, the Administrative Director of Courts shall revise the schedule of rates set forth in the pay plan for these court officials and employees to reflect the increase provided in this act, and shall certify the same to the State Comptroller, who shall issue warrants in accordance therewith. With respect to the legislative employees, the Secretary of the Senate for employees of the Senate, the Clerk of the House of Representatives for employees of the House of Representatives, the Director of the Legislative Reference Service for employees of the Legislative Reference Service, and the Director of the Legislative Fiscal Office for employees of the Legislative Fiscal Office, shall revise the schedule of rates set forth in the pay plan for these legislative employees to reflect the increase provided in this act, and shall certify the same to the State Comptroller, who shall issue warrants in accordance therewith.

Section 4. The amounts necessary to pay state officials and employees the increased salaries for the fiscal year beginning October 1, 1998, shall be paid from those funds that the salaries of the state officials and employees are paid.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 10, 1998

Time: 12:15 P.M.

Act No. 98-135

H.J.R. 130 – Rep. Boyd

HOUSE JOINT RESOLUTION

INVITING THE STEMLEY ROAD ELEMENTARY SCHOOL OF TALLADEGA, ALABAMA, TO ATTEND A JOINT SESSION OF THE ALABAMA LEGISLATURE.

WHEREAS, in May 1997, Stemley Road Elementary School of Talladega, Alabama, was chosen along with only 261 other schools nationwide as a National Blue Ribbon School, and was also one of only 11 schools selected for special honors in professional development; and

WHEREAS, this Legislature wishes to formally recognize this distinguished school and its students, parents, administration, and faculty; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby invite the Stemley Road School students, parents, faculty, and administration to attend a joint session of the Alabama Legislature on March 10, 1998.

RESOLVED FURTHER, That a copy of this resolution of invitation be provided to Principal Vicki Oliver for appropriate presentation and display, and as an expression of our tribute and esteem.

Approved March 10, 1998

Time: 8:30 A.M.

Act No. 98-136

H.J.R. 80 – Reps. Murphree and Hill

HOUSE JOINT RESOLUTION

DESIGNATING THE DAVID MORROW HIGHWAY IN FRANKLIN COUNTY.

WHEREAS, this legislative body, with pride and admiration, notes the request of the Honorable Tom Bevell, a respected and revered member of the United States House of Representatives for thirty years, to name a portion of Highway 24 in Franklin County in honor of Mr. David Morrow; and

WHEREAS, Congressman Bevell, in a letter to Representative Johnny Mack Morrow dated October 22, 1997, described the significant role of Mr. David Morrow in developing the Bear Creek Development Authority Lakes, a vital public works project which has provided multifaceted and continuing assets to our state; and

WHEREAS, Congressman Bevill stated that the Lakes would never have become a reality if it had not been for Mr. Morrow's tireless efforts; at his own expense, Dave Morrow annually traveled to Washington D.C. to persuasively and effectively testify before Congressional Committees in support of the project; and

WHEREAS, Mr. Morrow, who was a devoted citizen of Franklin County for over 95 years, was also instrumental in assisting Congressman Bevill in securing funding for the four-laning of Highway 24 from Moulton to Russellville, an essential East-West link which has significantly aided in the economic development of the Northwest sector of our state, as well as providing a safer and more efficient route for motorists; and

WHEREAS, Congressman Bevill, as well as the members of this legislative body, believe it is highly appropriate and proper to honor in an enduring fashion the lifetime contributions of Mr. Dave Morrow to the citizens of our state and his beloved Franklin County; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That, in perpetual recognition of the public service of Mr. David Morrow to the State of Alabama, the section of Highway 24, from the intersection of Highway 43 and Highway 24, approximately Milepost 26, to Highway 24 Milepost 18, be named and henceforth known as the David Morrow Highway. The Department of Transportation, to whom a copy of this resolution shall be forwarded, is authorized to erect and maintain appropriate signs displaying this honorary designation.

Approved March 10, 1998

Time: 8:31 A.M.

Act No. 98-137

H.J.R. 34 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING THE TOMMY MAPLES FAMILY OF ELKMONT-LIMESTONE COUNTY, ALABAMA, AS THE OUTSTANDING YOUNG FARM FAMILY IN ALABAMA FOR 1997.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Tommy and Melanie Maples, along with their four children Ben, 13, Will, 10, Josh, 7, and Sara, 2, of Elkmont, Alabama, as recipients of the 1997 Outstanding Young Farm Family in Alabama award in the beef division; and

WHEREAS, the award is bestowed annually by the Alabama Farmers Federation (ALFA) to recognize young farmers between

the ages of 17 and 35 for outstanding achievement in farm, home, and community activities, and the Tommy Maples Family is indeed a worthy recipient; and

WHEREAS, Tommy Maples grew up raising cattle on his father's purebred Angus operation, and today, along with his wife Melanie, operates a successful 800-acre beef and poultry operation in Elkmont with three poultry houses and a purebred herd exceeding 200; and

WHEREAS, Tommy and Melanie Maples both graduated from Western Kentucky in 1983, he with a degree in agriculture, and she with a degree in accounting; after pursuing graduate studies at Auburn University, and working for an agriculture recruiting firm in Huntsville for a few years, Tommy Maples began his farming career by joining his father in a farming partnership in 1988; and

WHEREAS, agriculture and farming play a vital role in the economic and general well-being of our communities and state, and the Maples family, through skilled management practices, careful planning, and diligent hard work, has already achieved a notable success in the business; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That as Outstanding Young Farm Family in Alabama for 1997, and for their outstanding contributions to Alabama's farming industry, we hereby most highly commend the Tommy Maples Family of Elkmont-Limestone County, Alabama, for whom a copy of this resolution of sincere regard shall be provided.

Approved March 10, 1998

Time: 8:32 A.M.

Act No. 98-138

H.J.R. 86 – Reps. Hinshaw, Hall (A),
Jorgensen, Papucci,
Sanderford, Hall (L) and
Haney

HOUSE JOINT RESOLUTION

CREATING A MADISON COUNTY COMMITTEE TO NEGOTIATE A COMPROMISE REGARDING HB125 AND HB400 OF THE 1998 REGULAR SESSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That there is created a Madison County committee to negotiate a compromise regarding HB125 and HB400 of the 1998 Regular Session. The committee shall be composed of the following persons: each member of the

Madison County Legislative Delegation, the mayor of each municipality and city located in Madison County, a representative from the Board of Education of the City of Huntsville, a representative of the Board of Education of the City of Madison, a representative of the Board of Education of Madison County, a representative of the City Council of Huntsville, and the County Administrator. The chair and vice chair of the committee shall be elected at the first meeting by the members of the committee. The committee is specifically charged with the power to negotiate a compromise regarding HB125 and HB400 of the 1998 Regular Session, thereby providing for the fair and equitable distribution of certain funds within Madison County.

BE IT FURTHER RESOLVED, That upon the request of the chair, the Secretary of the Senate, the Clerk of the House of Representatives, and the Madison County Legislative Office shall provide necessary clerical assistance for the work of the committee. The committee shall report its findings, conclusions, and recommendations to the Legislature not later than the 20th legislative day of the 1998 Regular Session, whereupon the committee shall stand dissolved and discharged of any further duties and liabilities.

Approved March 10, 1998

Time: 8:33 A.M.

Act No. 98-139

H.J.R. 85 – Reps. Starkey and Hamilton

HOUSE JOINT RESOLUTION

COMMENDING GEORGE LINDSEY FOR HIS OUTSTANDING HUMANITARIAN SERVICE.

WHEREAS, George Lindsey, a distinguished Alabama resident has brought credit and distinction to himself through his career and civic achievements for more than 36 years and, through his many activities, has improved the quality of life within the local community and throughout the State of Alabama, and it is appropriate at this time to highlight his many accomplishments, and to extend special honor and highest commendation; and

WHEREAS, a native of Jasper, Alabama, and graduate of the University of North Alabama, Mr. Lindsey is responsible for raising over 1.5 million dollars for the Alabama Special Olympics, as well as large amounts of money for various hospitals and schools in Alabama, including the University of North Alabama, and has allowed his name and fame to help those in need; and

WHEREAS, he has been honored as an alumnus of the year, received an honorary Doctorate of Humane Letters from the University of North Alabama, and has served as a worthy role model to many young people, especially Special Olympics participants, who have been inspired, encouraged, and touched by the care and concern shown by him; and

WHEREAS, renowned and admired as a Lion quarterback, Mr. Lindsey was inducted into the Alabama Sports Hall of Fame in 1983 with University of North Alabama friend and teammate, the legendary Harlon Hill, who achieved national fame as a pass receiver with the Chicago Bears; and

WHEREAS, he has provided immeasurably to the entertainment industry with his natural talent as the incomparable comedian "Goobar Pyle" in such successful shows as The Andy Griffith Show, Mayberry RFD, and Hee Haw, three of the longest running shows in the history of television, and has made a lasting impression on millions of fans; and

WHEREAS, Dr. George Lindsey, who has generously given his name and entertainment industry contacts to establish the George Lindsey Television and Film Festival at an annual event at the University of North Alabama on April 10-11, 1998, is indeed revered by admiring fans and friends throughout the world; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mr. George Lindsey is commended for his outstanding display of accomplishments and applauded for his remarkable talents and impeccable style and by copy of this resolution, thanked for his professional achievements, civic contributions, and the distinct pleasure he has given to others.

Approved March 10, 1998

Time: 8:34 A.M.

Act No. 98-140

S. 133 – Senator Bailey

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Surface Mining Commission with certain modifications; to amend Sections 9-16-83 and 9-16-91, Code of Alabama 1975, so as to conform the existing state law with the current requirements of the federal Surface Mining Control and Reclamation Act of 1977.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the sunset committee recommends the continuance of the Surface Mining Commission, with the additional recommendations for statutory change as set out in Section 3 of this act.

Section 2. The existence and functioning of the Surface Mining Commission, created and functioning pursuant to Sections 9-16-70 to 9-16-107, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 9-16-83 and 9-16-92 of the Code of Alabama 1975, are amended to read as follows:

“§9-16-83.

“(a) Each application for a surface coal mining reclamation permit under this article shall be accompanied by a fee as determined by the regulatory authority, but not to exceed the anticipated cost of reviewing, administering and enforcing the permit. In no event shall the permit fee be less than one thousand dollars (\$1,000). The regulatory authority shall develop procedures to enable the cost of the fee to be paid over the term of the permit.

“(b) The permit application shall be submitted in a format prescribed by and satisfactory to the regulatory authority and shall contain, among other things, all of the following:

“(1) The names and addresses of each of the following:

“a. The permit applicant.

“b. Every legal owner of record of the property (surface and mineral), to be mined.

“c. The holders of record of any leasehold interest in the property.

“d. Any purchaser of record of the property under a real estate contract.

“e. The operator if he or she is a person different from the applicant.

“f. If any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent.

“(2) The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area.

“(3) A statement of any current or previous surface coal mining permits in the United States held by the applicant and the permit identification of each pending application.

"(4) Any information which has changed from that submitted from the license application or renewal.

"(5) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the locality of the proposed site at least once a week for four successive weeks, and which includes the ownership, a description of the exact location and boundaries of the proposed site sufficient so that the proposed operation may be located by local residents, and the location of where the application is available for public inspection.

"(6) A description of the type and method of coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used.

"(7) The anticipated or actual starting and termination dates of each phase of the mining operation and number of acres of land to be affected.

"(8) The applicant shall file with the regulatory authority on an accurate map or plan, to an appropriate scale, prepared by or under the direction of and certified by a registered professional engineer or registered land surveyor clearly showing the land to be affected as of the date of the application, the area of land within the permit area upon which the applicant has the legal right to enter and commence surface mining operations and shall provide to the regulatory authority a statement of those documents upon which the applicant bases his or her legal right to enter and commence surface mining operations on the area affected and whether that right is the subject of pending court litigation. Nothing in this article shall be construed as vesting in the regulatory authority the jurisdiction to adjudicate property title disputes.

"(9) The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged.

"(10) A determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mining site and surrounding areas so that an assessment can be made by the regulatory authority of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. This determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency and

the permit shall not be approved until such information is available and is incorporated into the application.

“(11) When requested by the regulatory authority, the climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges.

“(12) Accurate maps to an appropriate scale prepared by or under the direction of and certified by a registered professional engineer or registered land surveyor clearly showing a. the land to be affected as of the date of application and b. all types of information set forth on topographical maps of the United States geological survey of a scale of 1:24,000 or 1:25,000 or larger, including all manmade features and significant known archeological sites existing on the date of application. The map or plan shall among other things specified by the regulatory authority show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within 1,000 feet of the permit area.

“(13) Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a. a qualified registered professional engineer, or b. a professional geologist with assistance from experts in related fields such as land surveying and landscape architecture, showing pertinent elevation and location of test borings or core samplings and depicting the following information: the nature and depth of the various strata of overburden; the location of sub-surface water, if encountered, and its quality; the nature and thickness of any coal or rider seam above the coal seam to be mined; the nature of the stratum immediately beneath the coal seam to be mined; all mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected; existing or previous surface mining limits; the location and extent of known workings of any underground mines, including mine openings to the surface; the location of aquifers; the estimated elevation of the water table; the location of spoil, waste, or refuse areas and topsoil preservation areas; the location of all impoundments for waste or erosion control; any settling or water treatment facility; constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto; and profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the operator's proposed reclamation plan.

“(14) A statement of the result of the test borings or core samplings from the permit area, including logs of the drill holes; the

thickness of the coal seam found, an analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined except that the provisions of this subdivision may be waived by the regulatory authority with respect to the specific application by a written determination that such requirements are unnecessary.

“(15) For those lands in the permit application which a reconnaissance inspection suggests may be prime farm lands, a soil survey shall be made or obtained according to standards established by the secretary of agriculture in order to confirm the exact location of such prime farm lands, if any.

“(16) Information pertaining to coal seams, test borings, core samplings, or soil samples as required by this section shall be made available to any person with an interest which is or may be adversely affected; provided, that information which pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental content which is potentially toxic in the environment) shall be kept confidential and not made a matter of public record.

“(c) (1) If the regulatory authority finds that the probable total annual production at all locations of any surface coal mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application, provided that funds are made available to the regulatory authority for such purposes by the Secretary of the United States Department of the Interior:

“a. The determination of probable hydrologic consequences required by subdivision (10) of subsection (b), including the engineering analyses and designs necessary for the determination.

“b. The development of cross-section maps and plans required by subdivision (13) of subsection (b).

“c. The geologic drilling and statement of results of test borings and core samplings required by subdivision (14) of subsection (b).

“d. The collection of archaeological information required by subdivision (12) of subsection (b) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"e. Pre-blast surveys required by paragraph e. of subdivision (15) of subsection (b) of Section 9-16-90.

"f. The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this article.

"(2) The regulatory authority shall provide or assume the cost of training coal operators that meet the qualifications stated in subdivision (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection. Funds for such purposes shall be made available to the regulatory authority by the Secretary of the United States Department of the Interior.

"(d) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a reclamation plan which shall meet the requirements of this article.

"(e) Each applicant for a surface coal mining and reclamation permit shall file a copy of his or her application for public inspection with the recorder at the courthouse of the county or an appropriate public office approved by the regulatory authority where the mining is proposed to occur, except for that information pertaining to the coal seam itself.

"(f) Each applicant for a permit shall be required to submit to the regulatory authority as part of the permit application a certificate issued by an insurance company authorized to do business in the state certifying that the applicant has a public liability insurance policy in force for the surface mining and reclamation operations for which such permit is sought, or evidence that the applicant has satisfied other state self-insurance requirements. The policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of state law. The policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations.

"(g) Each applicant for a surface coal mining and reclamation permit shall submit to the regulatory authority as part of the permit application a blasting plan which shall outline the procedures and standards by which the operator will meet the provisions of subdivision (15) of subsection (b) of Section 9-16-90.

"(h) A coal operator that has received assistance pursuant to subdivision (1) or (2) of subsection (c) shall reimburse the regulatory

authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.

"§9-16-91.

"(a) The regulatory authority shall promulgate rules and regulations directed toward the surface effects of underground coal mining operations, and embodying the following requirements. In adopting any rules and regulations, the regulatory authority shall consider all distinct differences between surface coal mining and underground coal mining.

"(b) Each permit issued pursuant to this article and relating to underground coal mining shall require the operator to:

"(1) Adopt measures consistent with available technology in order to prevent subsidence causing material damage to the extent technologically and economically feasible, maximize mine stability, and maintain the value and reasonably foreseeable use of such surface lands, except in those instances where the mining methods used requires planned subsidence in a predictable and controlled manner. Nothing in this subsection shall be construed to prohibit the standard method of room and pillar mining.

"(2) Seal all portals, entryways, drifts, shafts, or other openings between the surface and underground mine working when no longer needed for the conduct of the mining operations.

"(3) Fill or seal exploratory holes no longer necessary for mining, maximizing to the extent technologically and economically feasible return of mine and processing waste, tailings, and any other waste incident to the mining operation, to the mine workings or excavations.

"(4) With respect to surface disposal of mine wastes, tailings, coal processing wastes, and other wastes in areas other than the mine workings or excavations, stabilize all waste piles created by the permittee from current operations through construction in compacted layers including the use of incombustible and impervious materials if necessary and assure that the leachate will not degrade waters below water quality standards established pursuant to applicable federal and state law surface or ground waters and that the final contour of the waste accumulation will be compatible with natural surroundings and that the site is stabilized and revegetated according to the provisions of this section.

"(5) Design, locate, construct, operate, maintain, enlarge, modify, and remove, or abandon, in accordance with the standards and criteria

developed pursuant to the regulatory authority's regulations, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes and used either temporarily or permanently as dams or embankments.

"(6) Establish on regraded areas and all other lands affected, a diverse and permanent vegetative cover capable of self-regeneration and plant succession and at least equal in extent of cover to the natural vegetation of the area.

"(7) Protect offsite areas from damages which may result from such mining operations;

"(8) Eliminate fire hazards and otherwise eliminate conditions which constitute a hazard to health and safety of the public.

"(9) Minimize the disturbances of the prevailing hydrologic balance at the minesite and in associated offsite areas and to the quantity of water in surface ground water systems both during and after coal mining operations and during reclamation by doing each of the following activities:

"a. Avoiding acid or other toxic mine drainage by such measures as, but not limited to, the following:

"1. Preventing or removing water from contact with toxic producing deposits.

"2. Treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses.

"3. Casing, sealing, or otherwise managing boreholes, shafts, and wells to keep acid or other toxic drainage from entering ground and surface waters.

"b. Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to stream-flow or runoff outside the permit area (but in no event shall such contributions be in excess of requirements set by applicable state or federal law), and avoiding channel deepening or enlargements in operations requiring the discharge of water from mines.

"(10) With respect to other surface impacts not specified in this subsection including the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities, operate in accordance with the standards established under section 9-16-90 for such effects which

result from surface coal mining operations. The regulatory authority shall make modifications in the requirements imposed by this subdivision as are necessary to accommodate all distinct differences between surface and underground coal mining.

“(11) To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable.

“(12) Locate openings for all new drift mines working acid-producing or iron-producing coal seams in such a manner as to prevent a gravity discharge of water from the mine.

“(c) In order to protect the stability of the land, the regulatory authority shall suspend underground coal mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if it finds imminent danger to inhabitants of the urbanized areas, cities, towns and communities.

“(d) The provisions of this article relating to permits, bonds, inspections and enforcement, public review, and administrative and judicial review shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate all distinct differences between surface and underground coal mining. The regulatory authority shall promulgate such modifications in accordance with the rulemaking procedures established in section 9-16-75.

“(e) Underground coal mining operations conducted after the effective date of this act shall comply with each of the following requirements:

“(1) Promptly repair or compensate for material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or noncommercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or noncommercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or noncommercial building and shall be in the full amount of the diminution in value resulting from subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

“(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a

surface mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations. Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

Section 4. Nothing in the amendments to Sections 9-16-83 and 9-16-92 provided pursuant to this act shall be construed as affecting the applicability of 30 U.S. Code 1309a to existing underground mine permits.

Section 5. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, 3, and 4 of this act.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. All laws or parts of laws which conflict with this act are repealed.

Section 8. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming law, and upon approval by the Secretary of the Interior pursuant to Section 503 of Public Law 95-87, 30 U.S.C. §1253.

Approved March 11, 1998

Time: 2:05 P.M.

Act No. 98-141

S. 134 – Senator Bailey

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Sickle Cell Oversight and Regulatory Commission.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Alabama Sickle Cell Oversight and Regulatory Commission.

Section 2. The existence and functioning of the Alabama Sickle Cell Oversight and Regulatory Commission, created and functioning pursuant to Sections 22-10B-1 to 22-10B-7, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 11, 1998

Time: 2:06 P.M.

Act No. 98-142

S. 135 – Senator Bailey

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the State Radiation Control Agency.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the State Radiation Control Agency.

Section 2. The existence and functioning of the State Radiation Control Agency, created and functioning pursuant to Sections 22-14-1 to 22-14-35, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 11, 1998

Time: 2:07 P.M.

Act No. 98-143

S. 136 – Senator Bailey

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Oil and Gas Board.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Oil and Gas Board.

Section 2. The existence and functioning of the Oil and Gas Board, created and functioning pursuant to Sections 9-17-1 to 9-17-33, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 11, 1998

Time: 2:08 P.M.

Act No. 98-144

S. 137 – Senator Bailey

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Hearing Instrument Dealers until October 1, 2001.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Board of Hearing Instrument Dealers until October 1, 2001.

Section 2. The existence and functioning of the Board of Hearing Instrument Dealers, created and functioning pursuant to Sections 34-14-1 to 34-14-33, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1 and 2 of this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 11, 1998

Time: 2:09 P.M.

Act No. 98-145

S. 138 – Senator Bailey

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Board of Registration for Foresters with certain modifications; to amend Sections 34-12-1, 34-12-2, 34-12-4, 34-12-5, 34-12-6, 34-12-8, 34-12-9, 34-12-11, and 34-12-12, Code of Alabama 1975, so as to designate registered and licensed professionals in the practice of forestry as registered foresters; to increase certain registration, examination, and license renewal fees; and to increase certain administrative fines.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Board for Registration of Foresters, with the additional recommendations for statutory changes of the as set out in Section 3 of this act.

Section 2. The existence and functioning of the Board for Registration of Foresters, created and functioning pursuant to Sections 34-12-1 to 34-12-37, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved.

Section 3. Sections 34-12-1, 34-12-2, 34-12-4, 34-12-5, 34-12-6, 34-12-8, 34-12-9, 34-12-11, and 34-12-12 of the Code of Alabama 1975, are amended as follows:

“§34-12-1.

“For purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

“(1) BOARD. The state board of registration for foresters.

“(2) PRACTICE OF FORESTRY. Any professional service such as consultation, investigation, evaluation, planning, or responsible supervision as interpreted by the board of any forestry activities in connection with any public or private lands wherein the public welfare and property are concerned or involved when the professional service requires the application of forestry principles and data. The term also means the application, teaching, investigation, or administration of forestry theories, principles, practices, or programs directly or indirectly related to the environmental and economic use and the biological and ecological understanding of gross areas of land in public or private ownership or direction, or both, and supervision over persons engaged in the formation or implementation, or both, of forestry policies

“(3) REGISTERED FORESTER. A person who, by reason of his or her knowledge of the natural sciences, mathematics, economics, and the principles of forestry and by his or her demonstrated skills acquired through professional forestry education and professional forestry experience as interpreted by the board is qualified to engage in the practice of forestry and who also has been duly registered and holds a current valid license issued by the board.

“§34-12-2.

“(a) In order to benefit and protect the public, no person in either public or private capacity shall practice or offer to practice forestry, unless he or she has submitted evidence that he or she is qualified so to practice and is registered by the board as hereinafter provided or unless he or she is specifically exempted from registration under this

chapter. It shall be unlawful for any person to practice or offer to practice in this state forestry, as defined by this chapter, or to use in connection with his or her name or otherwise assume, use, or advertise any title or description tending to convey the impression that he or she is a registered forester, unless duly registered or exempt from registration under this chapter.

“(b) This chapter shall not be construed to prevent or to affect:

“(1) The practice of any other legally recognized profession or trade.

“(2) The application of forestry principles and procedures on any timberlands, woodlands, or forest in which any person, firm, partnership, or corporation owns an interest; or persons, firms, partnerships, and corporations having the right to manage and administer forestlands in any legal manner.

“(3) The work of an employee or a subordinate of any registered forester holding a license under this chapter; provided, that such work is done under the direction, supervision, and responsibility of a person holding a license under this chapter.

“(4) The practice of forestry by officers and employees of the United States government on federally owned lands.

“(5) The practice of forestry by officers and employees of the state of Alabama on state-owned lands.

“(6) Employees of the federal government and educational institutions of the state of Alabama who, in the exercise of their assigned duties, conduct forestry education programs or provide free forestry advice and assistance to timberland owners, or both.

“§34-12-4.

“(a) The following requirements shall be considered as minimum evidence satisfactory to the board that the applicant is qualified to practice forestry and to be registered and licensed pursuant to this chapter. Each applicant shall:

“(1) Hold a bachelors or higher degree from a school approved by the board or accredited by the Society of American Foresters in a forestry curriculum accepted by the board.

“(2) Have passed a written or oral examination, or both, designed to show the knowledge and skill obtained through graduation from the school or college.

“(3) Have a specific record of two years or more of experience in the practice of forestry of a nature satisfactory to the board and indicating that the applicant is competent to practice forestry.

"(4) Be a person of good character and reputation.

"(b) The board shall issue licenses only to those applicants who meet the requirements of this section .

"§34-12-5.

"Application for registration shall be made on forms prescribed and furnished by the board. An application shall contain statements made under oath showing the education of the applicant and a detailed summary of his or her professional work. The application shall also contain not less than five references, of whom three or more shall be registered foresters or graduates of a curriculum in forestry of four years or more in a school or college approved by the board or accredited by the Society of American Foresters, having personal or professional knowledge of the forestry experience of the applicant. Any proposed subsequent statement, correction, or addition to the application shall be given under oath in writing and shall be made a part of the original application. The registration fee for a license shall be set annually by the board in an amount not to exceed two hundred dollars (\$200), which shall accompany the application. Should the board deny the issuance of a license to any applicant, the fee deposited shall be retained by the board as an application fee.

"§34-12-6.

"When written or oral examinations, or both, are required, they shall be held at such time and place as the board may determine. The methods of procedure shall be prescribed by the board. A candidate failing an examination may apply for reexamination at the expiration of six months. This examination and all subsequent oral and written examinations shall be granted upon payment of a fee to be determined annually by the board, not to exceed one hundred dollars (\$100) in each instance.

"§34-12-8.

"(a) Licenses shall expire on the thirtieth day of September next following their issuance or renewal and shall become invalid on that date unless renewed. The secretary of the board shall notify, at his or her last registered address, every person registered under this chapter of the date of the expiration of his or her license and the amount of the fee that shall be required for its renewal for one year. The notice shall be mailed three months in advance of the date of the expiration of the licenses. Two subsequent monthly notices may be mailed, the second by certified mail, return receipt requested. The annual renewal fee for licenses shall be established annually by the board and shall not exceed two hundred dollars (\$200). Renewal of licenses for the following year

may be effected at any time during the three months preceding September 30 of the year in which the license has been issued or renewed by the payment of the renewal fee so fixed by this chapter. Licensees who renew their licenses between September 30 and December 31 of any year renewal is due shall pay a late renewal fee set by the board not to exceed an amount equal to twice the annual renewal fee. The board shall make an exception to the foregoing renewal provision in the case of a person who is in the armed services of the United States. A licensee who fails to renew a license by December 31 of any year renewal is due shall have his or her license revoked.

“(b) The state board shall adopt a program of continuing education for its licensees not later than October 1, 1991, and after that date no licensee shall have his or her active license renewed unless, in addition to any other requirements of this chapter, the minimum continuing annual education requirements are met. It is further provided that the continuing education program herein required shall not include testing or examination of the licensees in any manner.

“§34-12-9.

“The board may revoke the license of any registrant who is found guilty by the board of gross negligence, incompetency, or misconduct in the practice of forestry. The board may discipline its licensees by the imposition and collection of an administrative fine set by the board not to exceed two thousand dollars (\$2,000) per violation, and may institute any legal proceeding necessary to effect compliance with the chapter. All administrative fines collected by the board shall be deposited in the State Treasury in the “Professional Foresters Fund.” The board may designate a person or persons to investigate and report to it upon any charges of fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice against any registrant, as may come to its attention. Any person or persons so designated by the board shall receive the same compensation and shall be reimbursed for expenses in the same amount as the board as outlined in Section 34-12-32. Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or other misconduct in connection with any forestry practice against any registrant. The charges shall be in writing, shall be sworn to by the person making them, and shall be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred. The time and place for the hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of the hearing, shall be personally served on, or

mailed to the last known address of, the registrant, at least 30 days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him or her, and to produce evidence and witnesses in his or her own defense. If, after a hearing, three or more members of the board vote in favor of finding the accused guilty, the board may revoke the license of the registered forester. Any applicant whose license has been revoked as above may apply for a review of the proceedings with reference to the revocation of his or her license by the aforementioned circuit court and from there by appeal to the Supreme Court of Alabama. The only record to be considered by either the circuit court or by the Supreme Court shall be the record made before the board. New evidence shall be presented to the board, in session, before it may be used in court proceedings. The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked when three or more members vote in favor of reissuance. A new license to replace a revoked license may be issued, subject to the rules of the board and at a fee set by the board not to exceed an amount equal to twice the annual renewal fee. Lost, destroyed, or mutilated licenses may be issued, subject to the rules of the board and at a fee set by the board not to exceed fifty dollars (\$50) for the issuance.

“§34-12-11.

“(a) A person not a resident of, and having no established place of business in Alabama, or who has recently become a resident thereof, may use the title of registered forester and practice forestry provided:

“(1) Such person is legally licensed as a registered forester in his or her own state or country and has submitted evidence to the board that he or she is so licensed;

“(2) The state or country in which he or she is so licensed:

“a. Has standards for licensing comparable to Alabama and acceptable to the board; and

“b. Observes these same rules of reciprocity in regard to persons licensed under the provisions of this chapter.

(b) Each person seeking the privileges of reciprocity granted under this chapter shall submit his or he application therefor to the board and shall receive a card or certificate from the board before exercising such privileges. The application fee for obtaining such a reciprocity card or certificate shall be the same as is charged an Alabama licensee seeking to obtain reciprocal privileges in the home state or country of the applicant.

“(c) Persons practicing forestry in the state through reciprocity shall be subject to the same renewal and expiration rules as provided in Section 34-12-8.

“§34-12-12.

“(a) Any person who shall practice or offer to practice the profession of forestry in this state without being registered or exempted in accordance with this chapter; or any person who shall use in connection with his or her name or otherwise assume, use, or advertise any title or description tending to convey the impression that he or she is a registered forester, without being registered or exempted in accordance with this chapter; or any person who shall present or attempt to use as his or her own the license of another; or any person who shall give any false or forged evidence of any kind to the board or any member thereof in obtaining a license; or any person who shall attempt to use an expired or revoked license; or any person, firm, partnership, or corporation who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) for each offense. The board, or the person or persons designated by the board to act in its stead, may prefer charges for any of the violations of this chapter in any county in this state in which the violations may have occurred. All duly constituted officers of the law of this state, or any political subdivision thereof, shall enforce this chapter and prosecute any persons, firms, partnerships, or corporations violating the same. The Attorney General of the state and his or her assistants shall act as legal advisers of the board and render legal assistance as may be necessary in carrying out the provisions of this chapter.

“(b) All fines collected for the violation of any provisions of this chapter shall be paid over to the secretary of the board to be by him or her delivered to the State Treasurer to be placed in the Professional Foresters Fund in the same manner as funds received for the issuance of licenses.

Section 4. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, and 3 of this act.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 11, 1998

Time: 2:10 P.M.

Act No. 98-146

S. 398 – Senators Bailey, Armistead,
Ghee and Little

AN ACT

Relating to the Alabama Sunset Law; to continue the existence and functioning of the Alabama Board of Examiners in Psychology until October 1, 2000, with certain modifications; to amend Sections 34-26-1, 34-26-21, 34-26-41, 34-26-42, and 34-26-46, Code of Alabama 1975, so as to further define the practice of psychologists and psychological technicians; to provide for filling a vacant psychological technician position on the board; to define the practice of psychological technicians; to provide a system of supervisory training for psychological technicians and minimum hours of supervision; and to provide specific educational requirements for licensure as a psychological technician before and after September 1, 2000.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to the Alabama Sunset Law, the Sunset Committee recommends the continuance of the Alabama Board of Examiners in Psychology until October 1, 2000, with the additional recommendations for statutory change as set out in Sections 3, 4, and 5 of this act.

Section 2. The existence and functioning of the Alabama Board of Examiners in Psychology, created and functioning pursuant to Sections 34-26-1 to 34-26-48, inclusive, Code of Alabama 1975, is continued, and those code sections are expressly preserved until October 1, 2000.

Section 3. Sections 34-26-1, 34-26-21, 34-26-41, 34-26-42, and 34-26-46, Code of Alabama 1975, are amended to read as follows:

“§34-26-1.

“(a) For the purposes of this chapter, the two levels of psychological practice are as follows:

“(1) Psychologist.

“(2) Psychological technician.

“(b) (1) A person practices as a “psychologist” within the meaning of this chapter when he or she holds himself or herself out to be a psychologist or renders to individuals or to the public for remuneration any service involving the application of recognized principles, methods, and procedures of the science and profession of psychology, such as interviewing or administering and interpreting tests of mental abilities, aptitudes, interests, and personality characteristics for such purposes as psychological evaluation or for such purposes as overall personality appraisal or classification, or treatment. The practice of psychologists specifically includes the use of projective assessment techniques, the diagnosis of mental disorders, and psychotherapy.

"(2) Nothing in this definition shall be construed as permitting the use of those forms of psychotherapy which involve the administration or prescription of drugs or electro-shock or in any way infringing upon the practice of medicine as defined in the laws of this state. A psychologist shall not attempt to diagnose, prescribe for, treat, or advise a client with reference to problems or complaints falling outside the boundaries of psychological practice.

"(3) Nothing in this definition shall be construed as preventing qualified school counselors, vocational guidance counselors, vocational rehabilitation counselors, speech and hearing therapists, speech pathologists and audiologists, reading therapists, or teachers of exceptional children from rendering to the public for remuneration services for which they are qualified by training and experience involving the techniques of interviewing, administering, and interpreting tests of mental abilities, achievement, interests, and aptitudes for such purposes as evaluation or for educational or vocational guidance, selection, or placement. Nothing in this definition shall be construed as preventing technical and support staff from providing functions associated with psychological assessments under the supervision of a licensed psychologist.

"(c) (1) A person practices as a "psychological technician" within the meaning of this chapter when he or she holds himself or herself out to be a psychological technician. A psychological technician may not use the title "psychologist" or hold himself or herself out to the public or knowingly allow himself or herself to be held out to the public as a psychologist. A licensed psychological technician shall not practice or present himself or herself outside the area of competence as approved by the board based upon the examination and review of the qualifications, training, and experience of the individual. A psychological technician with adequate training may directly provide any of the following services without supervision:

"a. Administering and interpreting tests: A psychological technician may administer and interpret tests of intelligence, achievement, aptitudes, and interests, and testing for educational or vocational selection, guidance, or placement.

"b. Interviewing and screening: A psychological technician may conduct initial screening interviews which may lead to referrals for more extensive evaluation or treatment. A psychological technician may also administer adjective checklists, behavior rating scales, and other rating devices which may be completed by a variety of professional and non-professional observers.

"c. Psychoeducational interventions: Psychological technicians may provide didactic psychoeducational services to individuals or groups. The purpose of such groups is to disseminate information and educate clients.

“(2) A psychological technician who meets the education and training requirements of this chapter shall not provide any of the following services except under the qualified supervision of a licensed psychologist:

“a. **Personality appraisal.** Personality appraisal as performed by the psychological technician is defined as any objective assessment or evaluative technique that leads to conclusions, inferences, and hypotheses regarding personality functioning. Included are all statements relative to personality attributes, features, traits, structure, dynamics, and pathology or assets. These activities shall allow for the process of deciding the nature of the psychological disorder or condition.

“b. **Clinical intervention.** Includes the use of the principles, methods, and procedures of the science and profession of psychology for the treatment of individuals, groups, and families, and behavior management and behavior modification procedures with clinical populations.

“c. **Consultation services.** Services provided to other agencies by psychological technicians acting in the role of consultants are subject to the same rules for supervision as services provided directly by the psychological technician in his or her place of employment.

“d. **Assistance with forensic assessments and neuropsychological evaluations.** A psychological technician may assist a trained neuropsychologist in the administration of neuropsychological procedures or a qualified psychologist in forensic assessment. Independent forensic assessments and neuropsychological evaluations are outside of the scope of practice for psychological technicians.

“§34-26-21.

“(a) There is created a State Board of Examiners in Psychology to consist of seven persons who are residents of this state, who shall be appointed by the Governor under conditions set forth in this section. At least two members shall be chosen from and shall be members of the faculty, with the rank of assistant professor or above, of the accredited colleges and universities of the state, shall be licensed psychologists under this chapter, and shall be primarily engaged in teaching, research, or administration of psychology. Three members shall be licensed practicing psychologists under this chapter. One member shall be licensed as a psychological technician or qualified for licensure as a psychological technician under this chapter.

“The board shall perform those duties and exercise those powers prescribed in this chapter. No member of the board shall be

liable to civil action for any act performed in good faith in the performance of his or her duty pursuant to this chapter. Original appointments to the board shall be for terms as follows: One practicing psychologist for a term of one year, one academic psychologist for a term of two years, one practicing psychologist for a term of three years, one academic psychologist for a term of four years, and one practicing psychologist for a term of five years. Vacancies shall be filled for any unexpired term, and members shall serve until their successors are appointed and have qualified.

“Board members shall not serve more than two consecutive terms of office. Within 30 days after October 1, 1963, the Executive Committee of the Alabama Psychological Association, or of its successor organization, shall submit to the Governor a list of qualified candidates for the original five positions on the board. The list shall contain names of at least two qualified academic psychologists and two qualified practicing psychologists, from which the Governor shall select the board within 60 days. Not later than October 1 of each year the executive committee of the association, or of its successor organization, shall submit to the Governor the names of two qualified candidates for the position of the board to be vacated by reason of expiration of term of office. From the two candidates the Governor shall appoint one member not later than January 1 to serve on the board for a term of five years. With the exception of the two members appointed from the general public pursuant to subsection (b), other vacancies occurring in the board shall be filled for the unexpired term by appointment of the Governor from two qualified candidates for each vacancy submitted within 30 days after the vacancy occurs by the executive committee of the association, or by its successor organization. Those appointments shall be made within 30 days after the candidates’ names have been submitted. If the association, or its successor organization, fails to furnish the Governor with the list of persons eligible for appointment to the board, the Governor shall appoint any qualified members of the profession of psychology to the vacant position on the board.

“(b) (1) Within 30 days following October 1, 1988, the Governor shall appoint two new members to the board for five-year terms of office. Each of the two new members shall be members of the general public, and Alabama residents who are not licensed by the board, and whose spouses, if married, are not licensed by the board. One of the two new public members, and his or her successors, shall be Black. Vacancies for unexpired terms shall be filled by the Governor. Successor public members shall be appointed by the Governor.

“(2) Immediately upon the expiration or vacancy of the public position not held by a Black individual that public position on the

board shall be abolished. Thereafter, only one public position shall remain on the board. That public position shall continue to be filled by a member of the general public who is Black.

“(c) (1) On October 1, 1997, there is created a psychological technician position on the board. The Governor shall appoint a candidate to the psychological technician position on the board. The person initially appointed to fill the psychological technician position on the board shall have a master’s degree in psychology and shall not be required to be a licensed psychological technician. Any subsequent appointment to the psychological technician position on the board shall be a licensed psychological technician.

“(2) To fill the psychological technician position on the board, the Alabama Association of Masters in Psychology, or its successor organization, shall submit a list of four nominees to the executive committee of the association, or its successor organization, who shall select two names from the list to be submitted to the Governor.”

“(d) Any board members may be removed by the Governor after notice and hearing for incompetence, neglect of duty, malfeasance in office, or moral turpitude.

“(e) Immediately before entering public duties of the office, the members of the board shall take the constitutional oath of office and shall file the oath in the Office of the Governor, who upon receiving the oath shall issue to each member a certificate of appointment. The board shall have available for the Governor or his or her representative detailed reports on proceedings and shall make annual reports in the form required by the Governor.

“(f) The board shall elect annually a chair and vice-chair. Each member shall receive the same per diem and travel allowance paid to state employees for each day’s attendance at an official meeting of the board. The board shall hold at least one regular meeting each year. Additional meetings may be held at the discretion of the chair or at the written request of any two members of the board. The board shall adopt a seal which shall be affixed to all certificates issued by the board. The board shall from time to time adopt rules and regulations necessary for the performance of its duties. Four members of the board shall constitute a quorum. The board may hire any assistants necessary to carry on its activities within the limit of funds available to the board. The board may accept grants from foundations, individuals, and institutions to carry on its functions.

“§34-26-41.

“(a) (1) Any person wishing to obtain the right to practice as a psychologist or psychological technician in this state, who has not heretofore been licensed to do so, shall, before it shall be lawful for

him or her to practice as a psychologist or psychological technician in this state, make application to the Board of Examiners in Psychology through the chair upon such form and in such manner as prescribed by the board.

“(2) Unless a person has first obtained a valid license as aforesaid, it shall be unlawful and a violation of this chapter for him or her to practice.

“(b) A candidate for licensure as a psychologist shall furnish the board with satisfactory evidence of all of the following:

“(1) He or she is of good moral character.

“(2) He or she is at least 19 years of age.

“(3) He or she has received a doctorate degree from a department of, or school of, psychology, from an educational institution accredited and recognized by national and regional accrediting agencies as maintaining satisfactory standards.

“(4) He or she is competent in psychology as shown by passing such examinations, written or oral, or both, as the board will prescribe, unless exempted pursuant to subsection (d).

“(5) He or she is not engaged in unethical practice as defined in the Code of Ethics of the American Psychological Association.

“(6) He or she has not within the preceding six months failed an examination given by the board.

“(c) The board may issue a license to any person who is a licensed psychologist of another state, and who applies to the board, provided the licensee of another state shall furnish the board with satisfactory evidence of all of the following:

“(1) He or she is of good moral character, and holds his or her license in good standing from another state.

“(2) He or she is at least 19 years of age.

“(3) He or she has received a doctorate degree in psychology from an educational institution accredited and recognized by national and regional accrediting agencies as maintaining satisfactory standards or, in lieu of a doctorate degree in psychology, a doctorate degree in a closely allied field, if the training received therefor is substantially similar to that required of doctorates obtained from departments of psychology.

“(4) He or she is competent in psychology as shown by the passing of an examination, unless exempted pursuant to subsection (d), substantially equivalent to the examinations prescribed in subsection (a), or by the passing of a recognized national examination in psychology.

“(5) He or she is not engaged in unethical practice as defined in the Code of Ethics of the American Psychological Association.

“(6) He or she has practiced psychology in another state at least four consecutive years prior to application.

“(7) That the other state under which he or she is licensed gives similar recognition and reciprocal licensing to licensed psychologists of this state.

“(d) The board shall issue a license to any applicant with a doctoral degree in psychology who is otherwise qualified pursuant to subsections (a) and (b), who is licensed in at least two states and who has passed a recognized national exam.

“(e) A candidate for licensure as a psychological technician shall furnish the board with satisfactory evidence of all of the following:

“(1) He or she is of good moral character.

“(2) He or she is at least 19 years of age.

“(3) He or she has a master’s degree in psychology from a regionally accredited institution of higher education, or has completed the equivalent of a master’s degree from an American Psychological Association accredited doctoral program in psychology, as determined by the board. Educational requirements are provided in Section 34-26-65.

“(4) Is competent as a psychological technician, as shown by passing examinations, written or oral, or both, as prescribed by the board.

“(5) Is not engaged in unethical practice as defined in the most recent version of the Code of Ethics of the American Psychological Association.

“(6) Has not within the preceding six months failed an examination given by the board.

“§34-26-42.

“If any person holds himself or herself out to the public as being engaged in practice as a psychologist or psychological technician, such as clinical, counseling, school, or combined professional-scientific psychology, and does not then possess in full force and virtue a valid license to practice as a psychologist or psychological technician under this chapter, he or she shall be deemed guilty of a Class C misdemeanor and, upon conviction, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Nothing in this chapter shall be construed to limit the professional pursuits of teachers in recognized public and private schools,

clergymen, practitioners of medicine, social workers and guidance counselors from full performance of their professional duties. However, in such performance any title shall be in accord with this chapter. Students of psychology, psychological interns, or other persons preparing for the profession of psychology may perform as a part of their training the functions specified in this chapter, but only under qualified supervision. Use of psychological techniques by business and industrial organizations for employment placement, evaluation, promotion, or job adjustment of their own officers or employees or by employment agencies for the evaluation of their own clients prior to recommendations for employment is also specifically allowed. However, no industrial or business firm or corporation may sell or offer to the public or to other firms or corporations for remuneration any psychological services as specified in this chapter unless the services are performed or supervised by individuals duly and appropriately licensed under this chapter.

“§34-26-46.

“(a) The board shall suspend, place on probation, or require remediation for any psychologist or psychological technician for a specified time, to be determined at the discretion of the board, or revoke any license to practice as a psychologist or psychological technician or take any other action specified in the rules and regulations whenever the board finds by a preponderance of the evidence that the psychologist or psychological technician has engaged in any of the following acts or offenses:

“(1) Fraud or deception in applying for or procuring a license to practice as a psychologist or psychological technician; or in passing the examination provided for in this chapter.

“(2) Practice as a psychologist or psychological technician under a false or assumed name or the impersonation of another practitioner of a like or different name.

“(3) Immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations promulgated by the board.

“(4) Practicing as a psychologist or psychological technician in such a manner as to endanger the welfare of clients or patients.

“(5) Conviction of felony (a copy of the record of conviction, certified to by the clerk of the court entering the conviction shall be conclusive evidence).

“(6) Conviction of any crime or offense that reflects the inability of the practitioner to practice as a psychologist or psychological technician with due regard for the health and safety of clients or patients.

“(7) Harassment, intimidation, or abuse, sexual or otherwise, of a client or patient.

“(8) Engaging in sexual intercourse or other sexual contact with a client or patient.

“(9) Use of repeated untruthful or deceptive or improbable statements concerning the licensee’s qualifications or the effects or results of proposed treatment, including functioning outside of one’s professional competence or area of specialization established by education, training, and experience as recognized by the board.

“(10) Gross malpractice or repeated malpractice or gross negligence in practice as a psychologist or psychological technician.

“(11) Aiding or abetting practice as a psychologist or psychological technician by any person not licensed by the board.

“(12) Conviction of fraud in filing Medicare or Medicaid claims or in filing claims to any third party payor (a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence).

“(13) Exercising undue influence in such a manner as to exploit the client, patient, student, or supervisee for financial or other personal advantage to the practitioner or a third party.

“(14) The suspension or revocation by another state of a license to practice as a psychologist or psychological technician (a certified copy of the record of suspension or revocation of the state making such a suspension or revocation shall be conclusive evidence thereof).

“(15) Refusal to appear before the board after having been ordered to do so in writing by the executive office or chair of the board.

“(16) Making any fraudulent or untrue statement to the board.

“(17) Violation of the code of ethics adopted in the rules and regulations of the board.

“(18) Upon the recommendation of the Ethics Committee of the Alabama Psychological Association, or of its successor organization, or the Ethics Committee of the American Psychological Association.

“(19) Inability to practice as a psychologist or psychological technician with reasonable skill and safety to patients or clients by reason of illness, inebriation, misuse of drugs, narcotics, alcohol, chemicals, or any other substance, or as a result of any mental or physical condition.

“(20) Engaging in practice as a psychologist or psychological technician before a license is issued.

“(21) Failure to engage in continuing education or failure to pay fees for registration of continuing education credits.

“(22) Practice of a level of psychology inappropriate or beyond the scope of the particular license held by the licensee.

“(23) Failure to comply with any of the respective responsibilities of a supervisor or supervisee as provided in this chapter.

“(b) When the issue is whether or not a psychologist or psychological technician is physically or mentally capable of practicing as a psychologist or psychological technician with reasonable skill and safety to patients or clients, then, upon a showing of probable cause to the board that the psychologist or psychological technician is not capable of practicing psychology with reasonable skill and safety to patients, the board may petition a court of competent jurisdiction to order the psychologist or psychological technician in question to submit to a psychological examination by a psychologist to determine psychological status and/or a physical examination by a physician to determine physical condition. The psychologist and/or physician is to be designated by the court. The expense of the examination shall be borne by the board. Where the psychologist or psychological technician raises the issue of mental or physical competence or appeals a decision regarding his or her mental or physical competence, the psychologist or psychological technician shall be permitted to obtain his or her own evaluation at his or her own expense. If the objectivity or adequacy of the examination is suspect, the board may complete an examination by its designated practitioners at its own expense. When mental or physical capacity to practice is at issue, every psychologist or psychological technician licensed to practice in the state shall be deemed to have given consent to submit to a mental or physical examination or to any combination of such examinations and to waive all objections to the admissibility of the examination, or to previously adjudicated evidence of mental incompetence.

“(c) The board may assess the cost of any investigation, legal service, legal proceeding, or disciplinary action against any applicant or licensee found to be in violation of this chapter.

“(d) The Board of Examiners in Psychology may refuse to grant a certificate, or may recommend suspension of any license for a definite period not to exceed three years. The board may, upon satisfactory proof that any applicant or licensee has been guilty of any of the above offenses, refuse to grant a certificate to the applicant or may recommend revocation of a license of the

licentiate upon a vote of at least four members of the board. After three years from the date of a revocation, an application for reinstatement may be made to the board, and it may, upon favorable action by four of its members, recommend reinstatement."

Section 4. A new Article 4 is added to Chapter 26 of Title 34, Code of Alabama 1975, as follows:

§34-26-60.

(a) The scope of mandated supervision shall depend upon the specific areas of practice, experience, and training of the supervisee. Mandated supervision shall assure that an appropriate professional standard is being applied to the solution of the problem of a client, and that the laws that govern the practice of psychology and the ethics that guide the practice are understood and followed. The scope of mandated supervision may include enhancement and refinement of previously learned skills, but shall not include introductory training of a supervisee in additional skills, methods, or interventions. Supervision shall include consideration of all of the following areas:

- (1) Ethical, legal, and professional standards.
- (2) Technical skills and competency.
- (3) The utilization of supervision by a supervisee.

(4) The ability of a supervisee to function independently or with reduced supervision.

(b) Specific supervision shall not be required for each person evaluated or treated, or for every treatment, evaluative technique, or professional activity undertaken. Supervisors shall be required to co-sign reports and other appropriate documents.

(c) A licensed psychologist shall be recognized by the board as an appropriate supervisor for a psychological technician supervisee. The board may disapprove of an otherwise qualified psychologist acting as a supervisor for any of the following reasons:

- (1) Evidence that he or she is not competent or qualified to supervise a supervisee.
- (2) Evidence that he or she has failed to adhere to ethical or legal standards of the profession.

(3) Evidence that there is a lack of congruence between the training, experience, and area of practice of the proposed supervisor and the proposed area of practice of the supervisee.

(4) Evidence that he or she has a license against which disciplinary or remedial action has been taken.

§34-26-61.

(a) A licensed psychologist acting as a supervisor shall perform all of the following duties:

(1) Offer and provide supervision only within the area of his or her competence and assure that his or her professional expertise and experience is congruent with the practice of the supervisee.

(2) Prior to beginning supervision, enter into a written agreement with the supervisee on a board adopted supervision contract form which details the obligations of the supervisee as well as the responsibilities of the supervisor to the supervisee. This form shall be filed with and accepted by the board.

(3) Direct the supervisee to practice only within the areas for which he or she is qualified by education, training, and supervised experience.

(4) Establish and maintain a level of supervisory contact consistent with established professional standards and remain accessible to the supervisee.

(5) Direct the supervisee to keep him or her informed of services provided by the supervisee.

(6) If he or she has reason to believe that the supervisee is practicing in a manner which indicates that ethical or legal violations have been committed, he or she shall proceed as prescribed by the most recent version of the Code of Ethics of the American Psychological Association.

(7) Maintain a clear and accurate record of supervision with a supervisee that protects the confidentiality of the clients of the supervisee.

(8) Report annually on the required form to the board that the agreed upon supervision has occurred.

(9) File a final supervision report with the board within two weeks of the termination of supervision.

(10) Insure the written notification to clients or patients of the supervisory process, including the disclosure of clinical information to the supervisor and the means by which the supervisor may be contacted.

(b) Failure to comply with any of the duties specified in subsection (a) shall constitute a violation of this chapter.

(c) To maintain the professional nature of the supervision, a familial or strong personal relationship between the supervisor

and his or her supervisee is prohibited, except in extraordinary circumstances such as the lack of availability of any other qualified supervisor. In such cases, the board shall require documentation that no other supervision is available and shall require reference letters from colleagues commenting on the appropriateness of the supervisory relationship.

§34-26-62.

(a) A psychological technician supervisee shall perform all of the following duties:

(1) Enter into a written agreement with the supervisor, using a board adopted supervision contract form, which details the obligations of the supervisee as well as the responsibilities of the supervisor to the supervisee. This form shall be filed with and accepted by the board prior to practice.

(2) Attend scheduled supervision sessions.

(3) Provide the supervisor with a disclosure of psychological services being offered or rendered by him or her.

(4) Cooperate with the supervisor to assure that all conditions of the supervision are fulfilled.

(5) Provide the supervisor with information necessary for the supervisor to advise him or her on cases presenting professional, ethical, or legal concerns.

(6) File a revised supervision contract form within 45 days of a change in the conditions specified in the supervision contract form on file with the board.

(7) Obtain a written, signed consent from each patient or client that informs them of the supervisory process.

(b) Failure to comply with any of the duties specified in subsection (a) shall constitute a Class C misdemeanor.

§34-26-63.

(a) A psychological technician who practices in a jurisdiction outside of the state shall not be required to receive supervision for services rendered in that jurisdiction so long as the services are rendered in a manner consistent with the legal requirements of the jurisdiction.

(b) The initial supervision contract form shall be filed with and accepted by the board prior to any practice.

(c) An amended written supervision contract form shall be filed with the board within 45 days of any change in the conditions specified in the supervision contract form on file with the board.

Additionally, within 14 days after receiving written notification from the board that the filing of a new supervision contract form is necessary to provide for the protection of the public or the regulation of the practice of psychology, an amended written supervision contract form shall be filed with the board. A supervision contract form shall document either that supervision is required and is received, or that supervision is not required. A separate supervision contract form shall be filed for each separate work setting. If receiving supervision from more than one supervisor to meet minimum requirements, a separate supervision contract form shall be filed for each individual supervisor.

(d) A supervisor shall report to the board that agreed upon supervision has been provided and shall file a final report with the board upon the termination of supervision. If a psychological technician is not receiving supervision, it is his or her responsibility to report that fact to the board within 14 days. A report shall be submitted to the board within 14 days after receiving written notification from the board that a report is due, within 14 days after the termination of supervision, and within 45 days after a change in the conditions specified in the supervision contract form on file with the board.

(e) Additional supervision and reporting to the board may be required if previous evaluations or other information suggest possible problems with the competence or ethical standards of the supervisee. Additional documentation or an interview with the board or a designated representative of the board may be required if questions arise regarding the practice of the supervisee.

(f) Supervision shall be provided in face-to-face and primarily one-on-one sessions by the supervisor of record. The rate of supervision specified in this section shall be provided for each separate work setting in which the psychological technician supervisee engages in an activity requiring supervision.

§34-26-64.

Minimum supervision requirements are as follows:

(1) Level I. For a psychological technician with less than two calendar years of supervised practice as a licensed psychological technician, consisting of at least 3,000 hours of supervised practice, minimum supervision shall be provided as follows:

a. If the number of hours per month spent engaging in activities requiring supervision is one to 20, inclusive, the number of required hours of supervision per month shall be two.

b. If the number of hours per month spent engaging in activities requiring supervision is 21 to 30, inclusive, the number of required hours of supervision per month shall be three.

c. If the number of hours per month spent engaging in activities requiring supervision is 31 to 40, inclusive, the number of required hours of supervision per month shall be four.

d. If the number of hours per month spent engaging in activities requiring supervision is 41 to 60, inclusive, the number of required hours of supervision per month shall be five.

e. If the number of hours per month spent engaging in activities requiring supervision is 61 or greater, the number of required hours of supervision per month shall be six.

(2) a. Level II. For a psychological technician with a minimum of two calendar years of supervised practice as a licensed psychological technician, consisting of at least 3,000 hours of supervised practice, minimum supervision shall be provided as follows:

1. If the number of hours per month spent engaging in activities requiring supervision is one to 20, inclusive, the number of required hours of supervision per month shall be one.

2. If the number of hours per month spent engaging in activities requiring supervision is 21 to 60, inclusive, the number of required hours of supervision per month shall be two.

3. If the number of hours per month spent engaging in activities requiring supervision is 61 to 100, inclusive, the number of required hours of supervision per month shall be three.

4. If the number of hours per month spent engaging in activities requiring supervision is 101 or greater, the number of required hours of supervision per month shall be four.

b. To be approved by the board for Level II supervision, a psychological technician shall do all of the following:

1. Make application to the board on an application form provided by the board.

2. Have received at least one calendar year of supervision from his or her most recent supervisor.

3. Provide a written recommendation from his or her most recent supervisor for this level of supervision and letters from all available previous supervisors.

(3) a. Level III. For a psychological technician with a minimum of seven calendar years of supervised practice as a licensed psychological technician, consisting of at least 10,500 hours of supervised practice, minimum supervision shall be provided as follows:

1. If the number of hours per month spent engaging in activities requiring supervision is one to 50, inclusive, the number of required hours of supervision per month shall be one.

2. If the number of hours per month spent engaging in activities requiring supervision is 51 or greater, the number of required hours of supervision per month shall be two.

b. To be approved by the board for Level III supervision, a psychological technician shall do all of the following:

1. Make application to the board on an application supervision form provided by the board.

2. Have received at least one calendar year of supervision from his or her most recent supervisor.

3. Provide a written recommendation from his or her most recent supervisor for this level of supervision and letters from all available previous supervisors.

(4)a. Prior to September 1, 2000, a licensed psychological technician with a minimum of two calendar years of supervised practice, consisting of at least 3,000 hours of supervised practice by a licensed psychologist, may apply for Level II supervision status.

b. To be approved by the board for this Level II supervision status, a psychological technician shall do all of the following:

1. Make application to the board on an application form provided by the board.

2. Have received at least one calendar year of supervision from his or her most recent supervisor.

3. Provide a written recommendation from his or her most recent supervisor for this level of supervision and letters from all available previous supervisors.

(5) Contract and report forms shall be provided by the board.

§34-26-65.

Prior to September 1, 2000, the degree program of the applicant shall be publicly identified and clearly labeled as a psychology program. On and after September 1, 2000, the degree program of the applicant shall meet all of the following requirements:

(1) The program shall be publicly identified and clearly labeled as a psychology program.

(2) The program shall maintain clear authority and primary responsibility for the core and concentration areas whether or not the program crosses administrative lines.

(3) The program shall have an identifiable body of students in residence at the institution who are matriculated in the program for degree purposes.

(4) The program shall have an identifiable full-time psychology faculty in residence at the institution, sufficient in size and breadth to carry out the responsibilities of the program, and employed by and providing instruction at the main campus of the institution.

(5) There shall be a psychologist responsible for the program as the administrative head of the program, the advisor, a major professor, or the committee chair.

(6) The program shall be an integrated, organized sequence of study in psychology as demonstrated by an identifiable curriculum track or tracks wherein course sequences are outlined.

(7) The program shall encompass the equivalent of a minimum of two academic years, at least one of which shall be one academic year of full-time graduate study in student residence at the institution from which the degree is granted. Residence requires interaction with psychology faculty and other matriculated psychology students. A one year residency shall consist of 30 semester hours or 45 quarter hours taken on a full-time or part-time basis at the institution.

(8) The program shall include practice or other field experience appropriate to the area of specialty and practice as a psychological technician. This experience shall satisfy all of the following criteria:

a. The experience shall be a planned or directed program of training in psychology, in contrast to on-the-job training, and shall have provided the trainee with a planned and directed sequence of training integrated with the educational program in which the trainee is enrolled. The training shall be planned by the faculty of the program rather than by the trainee.

b. The training site shall have a clearly designated and licensed psychologist who is responsible for the integrity and quality of the training program.

c. The training shall last a minimum of six months and consist of at least 500 hours of supervised training. At least 50 percent of the training shall be spent in direct contact with patients or clients.

d. The training program shall have a written program description detailing the functioning of the program and shall be approved by the psychology program of the trainee before training occurs.

e. The training site staff shall provide a minimum of one hour per five hours of client contact of face-to-face, primarily individual, regularly scheduled supervision, overseeing the training experience.

f. Supervision may be provided in part by psychiatrists, social workers, or other related professionals qualified by the training site. At least 60 percent of the supervision shall be provided by a licensed psychologist.

g. A person enrolled in a training program shall be designated as a practicum student, or any other designation which clearly indicates training status.

(9) a. The program shall include a minimum of 45 semester hours or 68 quarter hours of graduate study in standard psychology courses, including courses drawn from academic psychology, such as social, experimental, physiological, developmental, history and systems, and statistics and research design.

1. Of the required semester or quarter hours, not more than six semester or nine quarter hours shall be credited for practicum and not more than six semester or nine quarter hours shall be credited for thesis.

2. No credit shall be allowed for audited courses or courses taken at an institution which is not a regionally accredited institution of higher education.

b. An applicant whose credentials have been approved by the board for examination at the licensed psychologist level may be issued a license as a psychological technician if the applicant fails an examination at the licensed psychologist level but passes the examination at the licensed psychological technician level. To receive this license, the applicant shall file all required application materials with the board for licensure at the psychological technician level.

Section 5. After one year from the effective date of this act, no person shall hold himself or herself out to the public as a licensed psychological technician or practice as a psychological technician unless licensed by the board. Failure to comply with this section shall constitute a Class C misdemeanor.

Section 6. The Legislature concurs in the recommendations of the Sunset Committee as provided in Sections 1, 2, 3, 4, and 5 of this act.

Section 7. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 11, 1998

Time: 2:11 P.M.

Act No. 98-147

S. 7 – Senator Mitchell

AN ACT

Relating to policies of certain school boards; to require the posting of personnel vacancy notices before the positions are filled; to provide for the adoption of board policies; and to allow for the suspension of posting notices in emergency situations.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) For the purposes of this section, the following words shall have the following meanings:

(1) **BOARD OF EDUCATION or BOARD.** All public county and city boards of education; the Board of Trustees of the Alabama Institute for Deaf and Blind; the Alabama Youth Services Department School Board in its capacity as the Board of Education for the Youth Services School District; the Board of Directors of the Alabama School of Fine Arts; the Board of Trustees of the Alabama School of Mathematics and Science; and the State Board of Education as applied to two-year postsecondary education institutions.

(2) **EXECUTIVE OFFICER.** The superintendent of any public county or city school system; the President of the Alabama Institute for Deaf and Blind; the president of any two-year school or college under the auspices of the State Board of Education; the Executive Director of the Alabama School of Fine Arts; the Superintendent of the Department of Youth Services School District; and the Executive Director of the Alabama School of Mathematics and Science.

(3) **EMPLOYEES.** Employees or personnel of the board except for the following:

a. Those employees covered under the Alabama State Merit System.

b. Those employees of the Alabama Institute for Deaf and Blind who work for the Alabama Industries for the Blind and those satellite employees at its regional centers.

(b) Each board of education, through its executive officer, shall post a notice of vacancy for each vacant personnel position. The notice shall be posted in a conspicuous place at each school campus and worksite at least 14 calendar days before the position is to be filled. The notice shall include, but not necessarily be limited to, all of the following:

(1) Job description and title.

(2) Required qualifications.

(3) Salary schedule and amount.

- (4) Information on where to submit an application.
- (5) Information on any deadlines for applying.
- (6) Any other relevant information.

(c) If a personnel vacancy occurs during the time when the schools are in session, the vacancy notice shall be posted not less than seven calendar days before the position is to be filled. All vacancies involving jobs which are supervisory, managerial, or otherwise newly created positions shall nevertheless require posting notices of at least 14 calendar days.

(d) The board may adopt or continue policies which are not inconsistent with this section. The board may adopt policies to ensure the safety and welfare of its students during dire emergency situations, but the posting of a vacancy notice as required in this section shall not be abridged or delayed except in dire emergency circumstances and then delayed only temporarily in order to reasonably meet the conditions of the emergency. The adoption of additional policies shall comply with the requirements and procedures of Section 16-1-30, Code of Alabama 1975, by all boards defined in this section.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective on June 1, 1998, following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 11, 1998

Time: 2:12 P.M.

Act No. 98-148

S. 154 – Senator Lindsey

AN ACT

To amend Section 41-16-51, Code of Alabama 1975, relating to competitive bidding; to exempt the purchases of dirt, sand, or gravel by a county governing body from in-county property owners in order to supply a county road or bridge project.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 41-16-51, Code of Alabama 1975, is amended to read as follows:

“§41-16-51.

“(a) Competitive bids shall not be required for utility services, the rates for which are fixed by law, regulation, or ordinance, and the competitive bidding requirements of this article shall not apply to:

“(1) The purchase of insurance.

“(2) The purchase of ballots and supplies for conducting any primary, general, special, or municipal election.

“(3) Contracts for securing services of attorneys, physicians, architects, teachers, superintendents of construction, artists, appraisers, engineers, consultants, certified public accountants, public accountants, or other individuals possessing a high degree of professional skill where the personality of the individual plays a decisive part.

“(4) Contracts of employment in the regular civil service.

“(5) Contracts for fiscal or financial advice or services.

“(6) Purchases of products made or manufactured by the blind or visually handicapped under the direction or supervision of the Alabama Institute for Deaf and Blind in accordance with Sections 21-2-1 to 21-2-4, inclusive.

“(7) Purchases of maps or photographs from any federal agency.

“(8) Purchases of manuscripts, books, maps, pamphlets, or periodicals.

“(9) The selection of paying agents and trustees for any security issued by a public body.

“(10) Existing contracts up for renewal for sanitation or solid waste collection, recycling, and disposal between municipalities or counties, or both, and those providing the service.

“(11) Purchases of computer and word processing hardware when the hardware is the only type that is compatible with hardware already owned by the entity taking bids and custom software.

“(12) Professional services contracts for codification and publication of the laws and ordinances of municipalities and counties.

“(13) Contractual services and purchases of commodities for which there is only one vendor or supplier and contractual services and purchases of personal property which by their very nature are impossible to award by competitive bidding.

“(14) Purchases of dirt, sand, gravel by a county governing body from in-county property owners in order to supply a county road or bridge project in which the materials will be used. The material shall be delivered to the project site by county employees and equipment used only on projects conducted exclusively by county employees.

“(b) This article shall not apply to:

“(1) Any purchases of products where the price of the products is already regulated and established by state law.

“(2) Purchases made by individual schools of the county or municipal public school systems from moneys other than those raised by taxation or received through appropriations from state or county sources

“(3) The purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or expansion of any building or structure or other facility designed or intended for lease or sale by a medical clinic board organized under Sections 11-58-1 to 11-58-14, inclusive.

“(4) The purchase, lease, or other acquisition of machinery, equipment, supplies, and other personal property or services by a medical clinic board organized under Sections 11-58-1 to 11-58-14, inclusive.

“(5) Purchases for public hospitals and nursing homes operated by the governing boards of instrumentalities of the state, counties, and municipalities.

“(6) Contracts for the purchase, lease, sale, construction, installation, acquisition, improvement, enlargement, or extension of any plant, building, structure, or other facility or any machinery, equipment, furniture, or furnishings therefor designed or intended for lease or sale for industrial development, other than public utilities, under Sections 11-54-80 to 11-54-99, inclusive, or Sections 11-54-20 to 11-54-28, inclusive, or any other statute or amendment to the Constitution of Alabama authorizing the construction of plants or other facilities for industrial development or for the construction and equipment of buildings for public building authorities under Sections 11-56-1 to 11-56-22, inclusive.

“(7) The purchase of equipment, supplies, or materials needed, used, and consumed in the normal and routine operation of any waterworks system, sanitary sewer system, gas system, or electric system, or any two or more thereof, that are owned by municipalities, counties, or public corporations, boards, or authorities that are agencies, departments, or instrumentalities of municipalities

or counties and no part of the operating expenses of which system or systems have, during the then current fiscal year, been paid from revenues derived from taxes or from appropriations of the state, a county, or a municipality.

“(8) Purchases made by local housing authorities, organized and existing under Chapter 1 of Title 24, from moneys other than those raised by state, county, or city taxation or received through appropriations from state, county, or city sources.

“(c) The state trade schools, state junior colleges, state colleges, and universities under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state shall establish and maintain such purchasing facilities and procedures as may be necessary to carry out the intent and purpose of this article by complying with the requirements for competitive bidding in the operation and management of each state trade school, state junior college, state college, or university under the supervision and control of the State Board of Education, the city and county boards of education, the district boards of education of independent school districts, the county commissions, and the governing bodies of the municipalities of the state and the governing boards of instrumentalities of counties and municipalities, including waterworks boards, sewer boards, gas boards, and other like utility boards and commissions.

“(d) Contracts entered into in violation of this article shall be void and anyone who violates the provisions of this article shall be guilty of a Class C felony.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 11, 1998

Time: 2:13 P.M.

Act No. 98-149

S. 300 – Senator Mitchem

AN ACT

To amend Section 35-8A-302, Code of Alabama 1975, to prohibit a condominium unit owners' association from adopting or enforcing a bylaw which restricts an owner from interior renovation or decoration of his or her unit which does not substantially alter the exterior appearance of the condominium.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 35-8A-302, Code of Alabama 1975, is hereby amended to read as follows:

“§35-8A-302.

“(a) Except as provided in subsection (b), and subject to the provisions of the declaration, the association, may:

“(1) Adopt and amend bylaws and rules and regulations, except that an association may not adopt a bylaw or enforce an existing bylaw to restrict an owner from renovating or decorating the interior walls, ceiling, or floor of his or her unit in a manner that does not substantially alter the exterior appearance of the condominium;

“(2) Adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners;

“(3) Hire and discharge managing agents and other employees, agents, and independent contractors;

“(4) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium;

“(5) Make contracts and incur liabilities;

“(6) Regulate the use, maintenance, repair, replacement, and modification of common elements;

“(7) Cause additional improvements to be made as a part of the common elements;

“(8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, but common elements may be conveyed or subjected to a security interest only pursuant to section 35-8A-312;

“(9) Grant easements, encroachments, leases, licenses, and concessions through or over the common elements;

“(10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements described in section 35-8A-202(2) and (4), and for services provided to unit owners;

“(11) Impose against owners of units charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

“(12) Impose reasonable charges for the preparation and recording of amendments to the declaration, resale certificates required by section 35-8A-409, or statements of unpaid assessments;

“(13) Provide for the indemnification of its officers and board and maintain directors’ and officers’ liability insurance;

“(14) Assign its right to future income, including the right to receive common expense assessments, but only to the extent the declaration expressly so provides;

“(15) Exercise any other powers conferred by the declaration or bylaws;

“(16) Exercise all other powers that may be exercised in this state by legal entities of the same type as the association; and

“(17) Exercise any other powers necessary and proper for the governance and operation of the association.

“(b) The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective on the tenth day following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 11, 1998

Time: 2:14 P.M.

Act No. 98-150

S.J.R. 64 – Senators Freeman, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner and Windom

SENATE JOINT RESOLUTION

COMMENDING WILLIAM HENRY GATES, III, AND WELCOMING HIM TO ALABAMA.

WHEREAS, it is with a great sense of pride and appreciation that William Henry Gates, III, is recognized for his distinguished professional career and most especially his participation with his wife in the Bill and Melinda Gates Library Foundation which has pumped hundreds of millions of dollars into public libraries throughout the nation to be used for computer related projects; and

WHEREAS, the Senate of Alabama is immensely pleased to welcome to our state Bill and Melinda Gates as they view in Demopolis, Selma, and Montgomery the limitless possibilities afforded all Alabamians by their generosity; and

WHEREAS, Mr. Gates, who is well-known for his unique foresight, ambition, intelligence, and competitive spirit, is the founder of Microsoft, and is one of America's most creative visionaries; his leadership and involvement in countless civic and charitable activities and his frequent anonymous financial support of many worthy organizations has played an instrumental role in the advancement of education in our nation; and

WHEREAS, the Bill and Melinda Gates Library Foundation was created in 1997, with the mission of providing to all Americans access to computers and digital information, and we note that this commendable effort has played a paramount role in a world-wide renaissance of knowledge, unlike any ever known; and

WHEREAS, the Gates Foundation's grant of 2.7 million dollars to 256 libraries in Alabama is indeed a magnificent gift, and this appreciative legislative body wishes to inform the Gates that their confidence in our state is well-founded, as we are certain that the people of Alabama intend to utilize these remarkable passageways into a vast world of knowledge and information for purposes of ensuring a successful future for our state and all of its citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his outstanding commitment and selfless service to our country, and in particular his benevolent efforts on behalf of the people of Alabama, highest commendation is hereby bestowed upon William Henry Gates, III, who is held in highest personal regard, and for whom a copy of this resolution shall be provided.

Approved March 11, 1998

Time: 2:15 P.M.

Act No. 98-151

S.J.R. 66 – Senator Armistead

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MIKE RUTHERFORD OF INDIAN SPRINGS VILLAGE, ALABAMA.

WHEREAS, noted with deep and abiding sorrow is the lamentable death of Mike Rutherford of Indian Springs, Alabama, at the age of only 51 years; and

WHEREAS, Mr. Rutherford was a wonderful, dedicated servant of our Lord and Savior Jesus Christ and spent numerous hours at New Hope Cumberland Presbyterian Church where he served as an elder; and

WHEREAS, he worked tirelessly for the good and betterment of his fellow citizens to incorporate Indian Springs by distributing petitions and attending town meetings and, for the last seven years, Mr. Rutherford, along with son, James, was a courier for "The Village Voice"; and

WHEREAS, with his generous spirit of volunteerism, he was always available to assist with the Aluminum Can Recycling Program and, in 1995, as a man of vision and director of the North Shelby Athletic Association, he raised funds to build six baseball fields to include Inverness Elementary and Oak Mountain Elementary Schools, Oak Mountain Intermediate School, and Asbury United Methodist Church; and

WHEREAS, Mike Rutherford indeed exemplified the ideals of achievement and good citizenry as a way of life throughout the village and valley where he was born, and where his family has lived for many decades, and was widely acknowledged for the positive impact he had upon countless young individuals; and

WHEREAS, left to cherish the memories of Mike Rutherford are his loving wife, Carol; son, James; and countless others who share in their great and grievous loss; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Legislature expresses deepest regret in the death of Mr. Rutherford and extends heartfelt sympathy to his bereaved family and friends.

Approved March 11, 1998

Time: 2:16 P.M.

Act No. 98-152

S.J.R. 67 – Senator Bedford

SENATE JOINT RESOLUTION

MOURNING THE DEATH OF MARION PENNY RAGSDALE.

WHEREAS, a source of deep sorrow to the Alabama Legislature is the lamentable death of Marion Penny Ragsdale of Birmingham, Alabama, on January 28, 1998; and

WHEREAS, born on October 8, 1927, to Lamar and Josie Pennington in Lamar County, Mrs. Ragsdale was a 1946 graduate of Lamar County High School in Vernon, Alabama, and received her teaching degree from the University of North Alabama and nursing degree from Jefferson State College; and

WHEREAS, she was a faithful and active member of the Christian Women's Fellowship at Crestwood Christian Church, and a registered nurse at HealthSouth and other area hospitals for nearly 30 years; and

WHEREAS, Mrs. Ragedale was recognized throughout the community as a woman who had a sympathetic ear and genuine concern for her family, friends, and many patients at HealthSouth and reached out to those in need with a smile; and

WHEREAS, preceded in death by her brother, John Billy Pennington, Marion Penny Ragsdale is survived by her devoted daughters, Lana Aiken and Ginny Ragsdale; son, Duke Ragsdale; three brothers, Jack, Lake, and Bob Pennington; and three grandchildren, Brad and Chris Morales, and Sylvia McLain; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we grievously mourn the death of Marion Penny Ragsdale, and extend our very deepest sympathy to her family, for whom a copy of this resolution is provided, that they may know of our concern for them.

Approved March 11, 1998

Time: 2:17 P.M.

Act No. 98-153

S.J.R. 68 – Senator Waggoner

SENATE JOINT RESOLUTION

COMMENDING WALTER M. BOYCE ON HIS PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Mr. Walter M. Boyce has served as Director of Traffic and Transportation of the American Cast Iron Pipe Company in Birmingham, Alabama, for the past 34 years; and

WHEREAS, Mr. Boyce has distinguished himself through his professional, charitable, and fraternal activities during those years of loyal and dedicated service, and it is widely acknowledged that the unparalleled success of his tenure is attributable to his experience and expertise as an outstanding administrator; and

WHEREAS, through his activities and participation in world traffic and trade matters, Mr. Boyce has been instrumental, as well as an inspiration, in the development and promotion of the Alabama State Docks and Alabama Freight Carriers including barges, trucks, and railroads, and, as a result, provided benefits to countless citizens of this state; and

WHEREAS, he also has brought acclaim to the City of Birmingham, Jefferson County, and the State of Alabama in his many world-wide activities on behalf of one of our most important industries, that of manufacturing cast iron pipe; and

WHEREAS, Mr. Walter M. Boyce has maintained a tradition of highest quality and professionalism while displaying excellence in exemplary leadership, and he has indeed been a source of great pride to the American Cast Iron Pipe Company and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mr. Boyce is most highly commended on his long and distinguished career with the American Cast Iron Pipe Company, and it is further directed that he receive a copy of this resolution as a token of our respect and best wishes.

Approved March 11, 1998

Time: 2:18 P.M.

Act No. 98-154

S.J.R. 69 – Senator Smith

SENATE JOINT RESOLUTION

COMMENDING THE GLENCOE VARSITY CHEERLEADERS ON THEIR OUTSTANDING ACHIEVEMENTS.

WHEREAS, it is with great pride and pleasure that the Alabama Legislature most heartily congratulates the Glencoe Varsity Cheerleaders who competed in the World Cheerleader

Association and Dance Championships in Nashville, Tennessee, during December 27-30, 1997; and

WHEREAS, with more than 13,000 cheerleaders participating, the spectacular Glencoe Varsity Cheerleaders placed second in the nation in Senior Dance, and teammate Katie Hornbuckle showcased her exceptional skills as a Team America finalist; and

WHEREAS, the squad also attended the UCA summer camp and, with the committed will-to-win spirit of each player, won a spirit stick and were Camp Dance and Cheer Champions; and

WHEREAS, members of the exemplary UCA All-Star Team are Katie Hornbuckle, Julia Chapman, Shannon Camper, and Mindy Palmer; and

WHEREAS, the talented group of Glencoe cheerleaders, of whom we are justly proud, are squad members, Shannon Camper, Julia Chapman, Katie Hornbuckle, Melea Higgins, Mindy Palmer, Staci Weltmeyer, Angela Wester, Amanda Ussery, and Lexie Yates, seniors; Amber McMahan and Catherine Stowe, juniors; and Deanna Fulmer, Lacey Huff, and Daphne Martin, sophomores; and

WHEREAS, the Glencoe Community, students, alumni, and friends are justly proud of the accomplishments of the Glencoe Varsity Cheerleaders who are commended for their spirited leadership of students and fans and wish to express their appreciation and continued support; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate and commend the Glencoe Varsity Cheereaders on placing second in the nation in Senior Dance, and do further direct that a copy of this resolution be presented to their coach for appropriate presentation and school display.

Approved March 11, 1998

Time: 2:19 P.M.

Act No. 98-155

S.J.R. 73 – Senator Mitchell

SENATE JOINT RESOLUTION

COMMENDING JAMES H. HOLLIS, JR., AS 1997 CITIZEN OF THE YEAR.

WHEREAS, James H. Hollis, Jr., has been selected by the Luverne/Crenshaw County Chamber of Commerce as its 1997 Citizen of the Year in recognition of the vital role he has played in

improving the quality of life in his local community, Crenshaw County and the State of Alabama; and

WHEREAS, a graduate of Brantley High School, he attended Troy State University and was a graduate of both the University of Alabama and Louisiana State University School of Banking; and

WHEREAS, Mr. Hollis served his country with honor in the United States Army, attaining the rank of First Lieutenant and, in 1957, played a vital role in organizing the Brantley National Guard unit; and

WHEREAS, employed by Brantley Bank & Trust Company in 1956, he enjoyed further success in 1973 as its president and as a distinguished member of numerous boards, and

WHEREAS, a prominent member of the community, Mr. Hollis has contributed significantly as president of the Crenshaw County Recreational Club, Luverne Rotary Club, a member of the State Banking Board, and is presently serving his sixth year as chairman of the Brantley Housing Authority; and

WHEREAS, he also served with distinction as a member of the Brantley Town Council for eight years, and as a leader of the Crenshaw County Board of Education for 24 years; he is presently serving his profession well as a member of the Finance and Bank Executive Committees of the Alabama Bankers Association; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That James H. Hollis, Jr., known affectionately by his many friends and family as "Goat," is commended for receiving the 1997 Luverne/Crenshaw County Citizen of the Year Award, and for the many other significant contributions he has made to the citizens of his local community, his county and state, and, by copy of this resolution, ~~extended~~ sincere best wishes for continued success in the future.

Approved March 11, 1998

Time: 2:20 P.M.

Act No. 98-156

S.J.R. 74 – Senator Freeman

SENATE JOINT RESOLUTION

AMENDING ACT 97-818, SJR 14, 1997 REGULAR SESSION, CREATING THE CHILDREN'S HEALTH INSURANCE PROGRAM COMMISSION, TO EXTEND THE EXISTENCE OF THE COMMISSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the last two full paragraphs of Act 97-818, SJR 14, 1997 Regular Session, are amended to read as follows:

"Upon the request of the chair, the Secretary of the Senate and the Clerk of the House may provide the clerical assistance necessary for the commission's work. The commission shall report its findings, conclusions, and recommendations to the Legislature not later than the third legislative day of the 1999 Regular Session, whereupon, the commission shall stand dissolved and discharged of any further duties and liabilities. Each legislative member of the commission shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the commission which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the commission. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business.

"Commission expenses shall not exceed \$10,000."

Approved March 11, 1998

Time: 2:21 P.M.

Act No. 98-157

S.J.R. 79 – Senators Biddle, Waggoner
and Amari

SENATE JOINT RESOLUTION

COMMENDING HERBERT EDWIN BRUCE ON HIS INDUCTION INTO THE 1998 ALABAMA HIGH SCHOOL SPORTS HALL OF FAME.

WHEREAS, it is with great pleasure that the Alabama Legislature notes the induction of Herbert Edwin (Eddie) Bruce into the Alabama High School Sports Hall of Fame; and

WHEREAS, a native of Birmingham, Alabama, Herbert Edwin Bruce, following an outstanding career both as an athlete and student at Hewitt-Trussville High School, the University of Chattanooga, and Maryville College, before a knee injury ended his athletic career in 1961, finished his college education at the University of Alabama, where he earned both his bachelor's and master's degrees, and at the

University of Alabama-Birmingham, where he received his AA certificate in school administration in 1975; and

WHEREAS, in the years since, as a coach, teacher, and administrator in the Birmingham and Jefferson County schools, Eddie Bruce has left a trail of successes in his career, and his legacy includes five high school All-Americans, seven college All-Americans, five professional football players, 17 major college scholarship recipients, and 25 small college scholarship recipients; and

WHEREAS, most especially, Coach Bruce has served as an outstanding role model for the countless young men who have come under his tutelage and care and, through his dedicated efforts, has impacted their lives that they might achieve to their highest potential as productive and responsible citizens; and

WHEREAS, Coach Bruce retired from coaching in 1982 to become community school coordinator for the Jefferson County School System; he later served as principal of Pleasant Grove High School and serves today at Corner High in Warrior, Alabama; and

WHEREAS, Herbert Edwin Bruce is indeed an exemplar of extraordinary leadership ability and significant achievement who is entirely deserving of membership in the Alabama High School Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and gratitude for outstanding contributions to Alabama's youth and to athletics, and as a member of the Alabama High School Sports Hall of Fame, we hereby most highly commend Herbert Edwin Bruce, for whom a copy of this resolution shall be provided.

Approved March 11, 1998

Time: 2:22 P.M.

Act No. 98-158

S.J.R. 80 – Senator Waggoner

SENATE JOINT RESOLUTION

COMMENDING DR. CARLTON SMITH FOR DISTINGUISHED SERVICE.

WHEREAS, Dr. Carlton Smith is to be commended after many years of dedicated service as Superintendent of Education for the Vestavia Hills Board of Education, and it is appropriate to acknowledge his exemplary accomplishments, and to extend special public recognition; and

WHEREAS, Dr. Smith, a native of Talladega, Alabama, earned his undergraduate degree from Livingston University, Master's degree from Auburn University, and a Doctor's degree from the University of Alabama; and

WHEREAS, he has unselfishly given his time and energy to improving public education in Alabama through service on numerous state boards and committees, including the tenure commission and state textbook committee; and

WHEREAS, ably serving as Superintendent of Education for the Vestavia Hills Board of Education for 12 years, Dr. Smith has succeeded in earning the admiration and respect of those individuals with whom he has been associated; and

WHEREAS, during Dr. Smith's tenure as Superintendent of Education, the Vestavia Hills School System has consistently been recognized as one of the top school systems in the State of Alabama, receiving prestigious national and state awards; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding contributions and achievements in the field of education, we hereby most highly commend Dr. Carlton Smith, whom we hold in highest personal regard, and join his many friends and family in congratulating him on his recent retirement.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Dr. Smith with sincere best wishes for future happiness and success.

Approved March 11, 1998

Time: 2:23 P.M.

Act No. 98-159

S.J.R. 81 – Senator Sanders

SENATE JOINT RESOLUTION

HONORING THE LATE ANN LOWE ON HER PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Ann Lowe, an Afro-American who died in 1981 at the age of 82, was the granddaughter of an Alabama slave and a popular dressmaker of women on the Social Register in the 1950s including the duPonts, Lodges, and Auchinclosses, whose debutante gowns and wedding dresses she often designed; and

WHEREAS, born in Grayton, Alabama, Mrs. Lowe learned her excellence in dressmaking from her mother, a traditional dressmaker,

and later from a design school in New York City where her clothes reflected the latest in sophistication, taste, or fashion; and

WHEREAS, Mrs. Lowe designed the famous silk taffeta gown Jacqueline Bouvier wore for her 1953 marriage to former President John Fitzgerald Kennedy, and, some time later, a Jacqueline Kennedy doll, wearing the same wedding gown, was marketed by the Franklin Mint Company of Franklin Center, Pennsylvania; and

WHEREAS, her creative and distinctive designs, as well as her extensive knowledge and innate talent in executing aesthetic and functional designs, indeed endeared her to countless individuals and she was indeed a source of joy and inspiration to her family and friends with her kind, gentle spirit; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize with gratitude and praise the life of Ann Lowe, and do further direct that a copy of this resolution be provided to her granddaughter, Alice Cone, so that she and others may know of the profound influence Ann Lowe had on all those whose lives she touched.

Approved March 11, 1998

Time: 2:24 P.M.

Act No. 98-160

S. 65 – Senators Amari, Denton,
Adams and Bedford

AN ACT

~~Providing for a commercial real estate broker lien; specifying when a claim for lien may be made; providing for the recording of a lien and for notice and the enforcement of a lien in the circuit court; providing for the priority of liens and for the establishment of an escrow account so that a lien may be released; providing for the release, enforcement, or satisfaction of a lien; and providing for a delayed effective date.~~

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act the following terms have the following meanings:

(1) **BROKER.** A broker as defined in Section 34-27-2 of the Code of Alabama 1975.

(2) **CLIENT.** A person or entity having an interest in commercial real estate that has entered into a written brokerage or agency

agreement with a real estate broker relative to the commercial real estate.

(3) **COMMERCIAL REAL ESTATE.** Any real estate including real estate classified as agricultural for tax assessment purposes other than real estate containing one to four residential units. Commercial real estate does not include single-family residential units such as condominiums, townhomes, mobile homes, residential lots, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis even though these units may be part of a larger building or parcel or real estate containing more than four residential units. For all purposes of this act, commercial real estate does not include, and this act shall not apply to, and no lien shall arise under this act against, any property or any interest therein, which is sold, leased, or otherwise conveyed to a governmental entity or to a utility, or to any subsidiary or affiliate thereof.

(4) **CONVEYANCE.** A sale, lease, or other transfer of commercial real estate.

(5) **REAL ESTATE.** Real property as defined in subdivision (7) of Section 1-1-1 of the Code of Alabama 1975.

Section 2. (a) A real estate broker shall have a lien, in the amount of the compensation agreed upon by and between the broker and his or her client, upon commercial real estate or any interest therein which is subject to and described in the brokerage agreement and owned by a client or by a party whose commercial real estate may be liened if different from the client who has received written notice from the broker in conformity with subsection (f) below prior to obtaining an interest in the commercial real estate through a purchase, lease, or conveyance. Commercial real estate, or an interest therein, acquired by a person other than a client prior to receipt of the notice from the broker required by this act is not subject to the lien provided by this act. The lien shall arise:

(1) Upon the satisfaction of each of: (a) conveyance of the commercial real estate identified in and subject to the listing agreement, brokerage, or agency agreement for the sale or lease of commercial real estate as evidenced by a writing signed by the owner of the commercial real estate or the owner's expressly authorized agent; (b) with written notice, by certified mail, return receipt requested to the party whose commercial real estate may be liened, if different from the parties to the agreement; and (c) the satisfaction of all conditions in the agreement for payment of compensation.

(2) Upon conveyance of the commercial real estate identified in and subject to the agreement, when a broker having a written

agreement with a prospective buyer or tenant to represent the buyer or tenant as to the purchase, lease, or other conveyance of commercial real estate becomes entitled to compensation; provided that the broker shall have given written notice, by certified mail, return receipt requested, to the party whose property may be lienied, if different from the parties to the agreement.

(b) A lien provided herein shall attach to the commercial real estate, or any interest in commercial real estate as described in subsection (a), upon the broker's recording a notice of lien in the office of the judge of probate in the county in which the commercial real estate or interest in the commercial real estate is located.

(c) When payment to a broker is due in one lump sum and not paid, the notice of lien shall be recorded within 90 days after the tenant takes possession of the leased premises or the property or interest therein is conveyed.

(d) When payment to a broker is due in installments, all or a portion of which is due only after a conveyance of the commercial real estate, any notice of lien for those payments due after conveyance may be recorded at any time subsequent to the conveyance so long as the claim for lien is recorded within 90 days of the date the payment was due and not paid.

(e) If a broker has a written agreement with a client as provided for in subdivision (2) of subsection (a), the lien shall attach to the client's interest upon the client's purchasing, leasing, or otherwise accepting a conveyance of the commercial real estate and the recording of a notice of lien by the broker in the office of the judge of probate in the county in which the commercial real estate or interest in the commercial real estate is located, within 90 days after the later of purchase, lease, or other conveyance to the buyer or tenant or the failure of the buyer or tenant to compensate the broker or cause the broker to be compensated pursuant to its agreement.

(f) The lien notice shall state the name and address of the lien claimant, the name of the owner, a legally sufficient description of the commercial real estate upon which the lien is being claimed, and the amount for which the lien is claimed. The notice of lien shall contain a sworn statement that the information contained in the notice is true and accurate to the knowledge of the signatory. The lien notice shall recite that the broker has disclosed to all parties that a lien might be claimed under this act. The notice of lien shall be signed by the broker or by a person expressly authorized to sign on behalf of the broker and shall be verified before a notary public or other authorized officer.

(g) The broker shall mail a copy of the notice of lien to the owner of the commercial real estate by certified mail, return

receipt requested. The broker's lien shall be void and unenforceable if notice is not given or if recording does not occur within the time and manner required by this act.

(h) (1) A broker may bring suit to enforce a lien in the circuit court in the county where the commercial real estate is located by filing a verified complaint and sworn affidavit that the notice of lien has been recorded in compliance with this act. Within 180 days after recording the notice of lien, the broker claiming a lien shall commence proceedings by filing a complaint. Failure to commence proceedings within 180 days after recording the notice of lien shall extinguish the lien.

(2) No subsequent notice of lien may be given for the same claim nor may that notice be asserted in any proceedings under this section.

(3) A complaint under this subsection shall contain a brief statement of the contract or agreement on which the lien is founded, the date when the contract or agreement was made, a description of the services performed, the amount due and unpaid, a legally sufficient description of the commercial real estate that is subject to the lien, and other facts necessary to state a claim for the payment of a commission, fee, or other compensation due the broker. The plaintiff shall make all interested parties, whose interest in the commercial real estate is affected by the action, defendants to the action, and shall issue summons and provide service as in other civil actions. The summons and complaint, and all other particulars of suit, shall be made in accordance with the Alabama Rules of Civil Procedure. All liens claimed under this section shall be foreclosed as provided for by law.

Section 3. All mortgages, other liens recorded prior to the recording of the broker's lien provided by this act, all purchase money mortgages, and all liens for ad valorem taxes shall have priority over the broker's lien provided by this act. Knowledge by mortgagee or other lienholder of the existence or possible existence of an unrecorded broker's lien shall not affect the priority of the mortgage or other lien.

Section 4. Except as otherwise provided in this section, whenever a notice of lien has been given or recorded, an escrow account may be, but is not required to be, established in an amount sufficient to release the claim for lien. These moneys shall be held in escrow by the closing agent or an independent escrow agent until the parties' rights to the escrowed moneys have been determined by written agreement of the parties, by a final court order, or by any other process which may be agreed to by the parties for resolution of their dispute. Upon the escrow of funds in the

amount of the claimed lien, the lien or claim of lien shall be automatically dissolved, and the broker shall be deemed to have an equitable lien on the escrow funds pending a resolution of the broker's claim. The escrow shall not be released until a resolution is reached and agreed to by all necessary parties or ordered by a court. The parties may agree to any alternative procedures which would allow the transaction to close which are available and are acceptable to the parties and to the broker claiming the lien in the transaction.

Section 5. (a) Whenever a notice of lien has been filed with the office of the judge of probate and a condition occurs that would preclude the broker from receiving compensation under the terms of the broker's written agreement, the broker shall record a written release or satisfaction of the lien, in the appropriate records of the office of the judge of probate and shall furnish a copy of the recorded release or satisfaction to the owner.

(b) Upon written demand of the owner, lienee, or authorized agent served on the broker claiming the lien requiring that suit be commenced to enforce the lien or answer be filed in a pending suit, a suit shall be commenced or answer filed in a pending suit, within 60 days thereafter, or the lien shall be extinguished. Service of such demand shall be in the manner provided by the Alabama Rules of Civil Procedure for the service of a summons and complaint.

(c) Whenever a notice of lien has been timely filed in the office of the judge of probate and is paid, or where there is failure to institute a suit to enforce the lien within the time provided by this act, the lien shall be invalid and the broker shall, within 30 days after payment or expiration of the time in which to perfect the lien, record a written release or satisfaction of the lien in the proper office of the judge of probate and shall furnish a copy of the recorded release or satisfaction to the owner or other lienee. This release or satisfaction filed by the broker shall not be required to invalidate the lien.

(d) The lien provided herein and the broker's right to file and record a lien provided for in this act shall be terminated and dissolved if the owner, landlord, tenant, purchaser from owner, lender providing a loan secured by commercial real estate, or other holder of an interest in the commercial real estate shows either of the following:

(1) The lien has been waived in writing by the lien claimant or its expressly authorized agent.

(2) The client at whose instance the brokerage services were provided has given a sworn written statement that all compensation

due or to become due under the listing, agency, or other brokerage agreement has been paid or has been waived in writing by the potential lien claimant, or that no compensation is owed to such broker related to the commercial real estate.

Section 6. This act shall become effective on October 1, 1998, after its passage and approval by the Governor, or upon its otherwise becoming law.

Approved March 11, 1998

Time: 2:25 P.M.

Act No. 98-161

H.J.R. 228 – Rep. Willis

HOUSE JOINT RESOLUTION

COMMENDING COACH WILLIAM EDWARD JONES FOR HIS OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, William Edward Jones, who is Head Coach at Jacksonville State University, is widely known and respected not only for his impressive career coaching record of 465 wins to 213 losses, but also for the positive impact he has had upon the students under his tutelage; and

WHEREAS, a graduate of Marshall County High School, he attended Snead State Junior College, and received his B. S. in Business Administration from Jacksonville State University and Master of Science Degree from the University of North Alabama; and

WHEREAS, Coach Jones, familiarly known as Bill, began his coaching career as an assistant at the University of North Alabama in 1971, compiling a 28-17 record, and, during 1974, he began his illustrious Gamecock coaching career at Jacksonville State University while celebrating his 100th win in 1979; and

WHEREAS, personifying that positive ability to persevere and win, his other notable wins include his 200th in 1984, 252nd in 1988, 300th in 1988, and while scoring his 400th win in 1993; and

WHEREAS, he also is deserving of highest praise for his induction into the Alabama Chapter of the prestigious American Softball Association Hall of Fame and the Jacksonville State University Athletic Hall of Fame; and

WHEREAS, a faithful deacon at First Baptist Church of Jacksonville, Coach William Edward Jones is married to the former

Sue Cox of Huntsville, and they are the proud parents of two beautiful daughters, Jennifer and Ashlee; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we highly commend Coach Bill Jones for his professional accomplishments and contributions to college athletics, and do further direct that he receive a copy of this resolution with our warmest personal regards.

Approved March 12, 1998

Time: 2:50 P.M.

Act No. 98-162

H.J.R. 138 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. BERNARD L. CAMMON OF SARALAND, ALABAMA, ON THE OCCASION OF THEIR 58TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the 58th Wedding Anniversary of Mr. and Mrs. Bernard L. Cammon of Saraland, Alabama, on December 24, 1998; and

WHEREAS, Bernard L. and Geneva Bryant Cammon were joined in Holy Matrimony on December 24, 1940, in Cullman, Alabama, and, through the ensuing years, have shared the accomplishments, happiness, and sorrows encountered in a life of mutual trust and devotion; and

WHEREAS, they have distinguished themselves as valued and respected members of their community and, to all who have witnessed their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, indeed, this happy couple continues to enjoy life to the fullest in a partnership of shared happiness and pleasures as demonstrated through their mutual interest in the preservation of automotive history and their love of antique cars, and as members of the Antique Automobile Club of America and the Deep South Region A.A.C.A.; and

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and a 58th Wedding Anniversary is indeed a cause for great rejoicing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate this exemplary couple, Mr. and Mrs. Bernard L. Cammon of Saraland, Alabama, on their 58th Wedding Anniversary and their long and happy lives together, and extend to them our sincere best wishes for continued good health and happiness in the years to come.

Approved March 17, 1998

Time: 9:15 A.M.

Act No. 98-163

H.J.R. 108 – Rep. Hall (L)

HOUSE JOINT RESOLUTION

DEPLORING THE BOMBING OF THE NEW WOMAN ALL WOMEN HEALTH CARE CLINIC IN BIRMINGHAM, ALABAMA, ON JANUARY 29, 1998.

WHEREAS, it is with great shock and sadness that we learn of the tragic and senseless bombing of the New Woman All Women Health Care Clinic in Birmingham, Alabama, on January 29, 1998; and

WHEREAS, the blast killed Birmingham policeman Robert D. Sanderson and seriously injured clinic counselor Emily Lyons, who is being treated at UAB Hospital; and

WHEREAS, this body fully supports the efforts of law enforcement officials in the swift apprehension of the perpetrator or perpetrators of this heinous act; and

WHEREAS, we further urge understanding, restraint, and civility among all our citizens concerning this emotional issue; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we strongly deplore this cowardly and vicious act of terror, and endorse all efforts to help bring to justice the person or persons responsible for this crime.

RESOLVED FURTHER, That by copy of this resolution, we extend our sincere sympathy to the families of the bombing victims, and pray for the speedy recovery of Ms. Lyons.

Approved March 17, 1998

Time: 9:16 A.M.

Act No. 98-164

H.J.R. 134 – Rep. Collins

HOUSE JOINT RESOLUTION

COMMENDING KATIE GRAYSON FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, it is with great pleasure that heartiest congratulations are herein extended to Katie Grayson, a ninth-grade student at Fayette County High School, who was the winner of the 1997 Alabama State Spelling Bee competition in Birmingham, Alabama; and

WHEREAS, it is a well-known fact that students who participate in spelling bees improve their spelling, increase their vocabularies, and develop correct grammar, and Katie, of whom we are justly proud, has successfully competed in spelling bees since the fourth grade; and

WHEREAS, an estimated nine million students participate in the National Spelling Bee program sponsored by the E. W. Scripps Company, in conjunction with approximately 230 newspapers and other authorized sponsors in the United States, Guam, Puerto Rico, Japan, Mexico, the U. S. Virgin Islands, American Samoa, Jamaica, the Bahamas, Europe, and Saudi Arabia; and

WHEREAS, Katie, who competed in the National Spelling Bee program during May 1997, is the daughter of David and Rita Grayson; older sister to Jessica; and granddaughter of the late T. L. Grayson and Mattie Grayson of Aliceville, Alabama, and Judge Ted and Johnnie Boyett of Sulligent, Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, Katie Grayson is most highly commended on her determination to succeed in her educational endeavors and, by copy of this resolution, is extended sincere best wishes for continued success.

Approved March 17, 1998

Time: 9:17 A.M.

Act No. 98-165

H.J.R. 135 – Reps. Collins and Layson

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WILLIAM W. CARPENTER OF MILLPORT. ALABAMA.

WHEREAS, grievously recorded is the death of William W. "Bill" Carpenter of Millport, Alabama, on March 25, 1997, at the age of 73 years; and

WHEREAS, a native and lifelong resident of Pickens County, Mr. Carpenter received his B. S. degree from Livingston University, an M. A. degree from George Peabody College for Teachers, and A. A. Certification from the University of Alabama; and

WHEREAS, in a long and distinguished career in the field of education, Bill Carpenter served successively as a coach at Kennedy High School in Lamar County; as principal of Liberty High School, Pickens County; and as assistant superintendent of the Pickens County School System and as superintendent of education for fourteen years; and

WHEREAS, over the years, in all aspects of his dedicated tenure, Mr. Carpenter remained steadfast in his resolve to provide and foster a quality education for the youth of Pickens County, and resolute in all his efforts on their behalf; and

WHEREAS, also over his lifetime, he exhibited a spirit of community service and remained actively involved toward the betterment and well-being of his community and his fellowman through leadership and support of a number of worthy organizations including the Pickens County Board of Human Resources, HELP, Inc., the Pickens County Hospital Association, West Alabama Civic Club, AARP, and Antioch Cumberland Presbyterian Church; he also was a member of the Lamar County Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life and service of William W. "Bill" Carpenter of Millport, Alabama, and, by copy of this resolution, extend our deepest sympathy to his beloved wife, Mrs. Frances Huff Carpenter; daughter and son-in-law, Penelope (Penny) and Larry Henderson; son and daughter-in-law, William W. (Bill) and Bonnie Carpenter, son and daughter-in-law, Andrew (Andy) and Reba Carpenter; six grandchildren, Jarad and Blake Carpenter, Anna and Audra Henderson, and Kara and Haley Carpenter; and other close family members and friends.

Approved March 17, 1998

Time: 9:18 A.M.

WHEREAS, heartiest congratulations are extended to Ernie and Eugenia (Ramey) Youens of Saraland, Alabama, who celebrated their 55th Wedding Anniversary on January 1, 1998; and

WHEREAS, joined in Holy matrimony on January 1, 1943, in Gulfport, Mississippi, they have since remained steadfastly faithful to their wedding vows, and to all those who have witnessed their commitment to the ideals of marriage, the lasting partnership of Mr. and Mrs. Youens is an enviable example of trust and devotion; and

WHEREAS, not only are Mr. and Mrs. Youens to be congratulated on this milestone in their long and happy marriage, but also upon the character and accomplishments of their lives together; and

WHEREAS, Mr. and Mrs. Youens, who are members of the National Antique Automobile Club of America and the Deep South Region Car Club A. A. C. A., will be honored at a buffet breakfast sponsored by the Deep South Region Car Club in Mobile, Alabama, on February 14, 1998, and will enjoy the hospitality of family and friends while sharing the beauty of life and trips along the way; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate Mr. and Mrs. Youens on their 55th Wedding Anniversary, and do further direct that they receive a copy of this resolution, executed in highest personal regard and with sincere best wishes for many more happy years together.

Approved March 17, 1998

Time: 9:19 A.M.

Act No. 98-167

H.J.R. 153 – Reps. Allen, Guin, Layson
and Parker (T)

HOUSE JOINT RESOLUTION

COMMENDING HOWARD R. REDMOND FOR OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of Howard R. Redmond, former Chief Wildlife and Conservationist for Gulf State Paper Company, and the first industrial biologist in the South, whose knowledge of forestry and wildlife management provided the foundation to support his innovative plan for improving multiple use management on industrial forest land; and

WHEREAS, Mr. Redmond, who was a skillful businessman and loyal employee with Gulf States Paper Company for 15 years, also developed and refined techniques of game management, including trapping and restocking deer and turkey, and used his expertise in beaver control and controlled burning; and

WHEREAS, a man before his time, Mr. Redmond, familiarly known as Ray, is a man of integrity who provided valuable service to area hunters by enforcing wildlife regulations, and was a mentor to countless individuals with his cordial and professional manner; and

WHEREAS, he was known for his deep sense of humor and generous spirit as a host for Gulf States, and worked diligently to promote a standard of excellence, proving that people management is the prerequisite of good wildlife; and

WHEREAS, his record of leadership and exceptional professional achievements as Chief of Management of Wildlife and Conservation has indeed earned Mr. Redmond the respect and admiration of the people of the State of Alabama through his hard work and selfless commitment; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service with wildlife and conservation, we most highly commend Howard R. Redmond and do further direct that he receive a copy of this resolution as an expression of our tribute and esteem.

Approved March 17, 1998

Time: 9:20 A.M.

Act No. 98-168

H.J.R. 154 – Rep. McDaniel

HOUSE JOINT RESOLUTION

COMMENDING JAMES THURSTON JOHNSON UPON HIS INDUCTION INTO THE 1997 DEKALB COUNTY SPORTS HALL OF FAME.

WHEREAS, James Thurston “Skin” Johnson has brought credit and distinction to himself through his many civic achievements and has improved the quality of life within the Crossville Community, and it is appropriate at this time to highlight his many accomplishments, and to extend special honor and highest commendation; and

WHEREAS, Mr. Johnson, who was born in Crossville, Alabama, on July 2, 1915, was inducted into the 1997 DeKalb County Sports Hall of Fame and is recognized for his invaluable service in organizing the Crossville Youth Baseball program in 1955; and

WHEREAS, he served with devotion as president of the Crossville Baseball League from 1957-1995, coaching until 1993, and also was instrumental in the construction of the Crossville City Ball Park, which was named in his honor; and

WHEREAS, after organizing Dixie Youth Baseball in Crossville and Boaz in 1962, Mr. Johnson was a progressive leader in expanding Dixie Youth from two leagues to 42 leagues in six counties, as well as providing brilliant leadership and direction in establishing the Crossville Quarterback Club, serving as captain for the first four years; and

WHEREAS, as result of his tireless hard work and unwavering commitment, Mr. Johnson has succeeded in compiling an impressive record of civic achievements, a record that has earned for him the admiration and respect of those persons who have had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his outstanding commitment and selfless service to the Crossville Community and upon his induction into the DeKalb County Sports Hall of Fame, highest commendation is hereby bestowed upon James Thurston Johnson, for whom a copy of this resolution is provided.

Approved March 17, 1998

Time: 9:21 A.M.

Act No. 98-169

H.J.R. 174 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING GLORIA JOHNSON ELLERS UPON HER INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, Gloria Johnson Ellers, a native of Chicago, Illinois, and resident of Enterprise, Alabama, is indeed deserving of highest praise and recognition for her induction into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, Ms. Ellers, who has the athletic ability to perform and excel, led her teammates at Fort Benning, Georgia, to the

Ladies Bowling League Championship 10 times and won an exciting tennis competition in mixed doubles; and

WHEREAS, as evidence of her all-around achievements Ms. Ellers, an active member and qualified contestant of the Women's Southern Golf Association since 1993, won the State Senior Championship numerous times, and recorded six holes-in-one, her sixth at the young age of 73 years; and

WHEREAS, Ms. Ellers also enjoyed a successful career as a singer in Chicago and has been the recipient of countless prestigious awards including the Gloria Ellers Spirit Award, a trophy named in her honor in recognition of her willingness to help others, her sense of fair play, and for the inspiration she provides to others; and

WHEREAS, a true servant of the community, she has dedicated her great talents and abilities as a member of the WAGA's State Senior Committee, State Golf Course Ratings Committee, and as WAGA area director; and

WHEREAS, wife of the late Colonel Conway Ellers, Gloria Johnson Ellers is indeed an exemplar of extraordinary leadership ability and significant achievement who is entirely deserving of induction into the Wiregrass Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate and commend Ms. Ellers, and do further direct that she receive a copy of this resolution of sincere tribute as recipient of this prestigious honor.

Approved March 17, 1998

Time: 9:22 A.M.

Act No. 98-170

H.J.R. 155 – Rep. Parker (T)

HOUSE JOINT RESOLUTION

DESIGNATING APRIL 11, 1998, AS WORLD PARKINSON DISEASE DAY.

WHEREAS, Parkinson Disease is a debilitating, degenerative brain disorder that affects the lives of thousands of persons and their families each year; and

WHEREAS, the second annual World Parkinson Disease Day is scheduled for April 11, 1998, held in commemoration of the birthday of the famous English surgeon who first identified the disorder in 1817, Dr. James Parkinson; and

WHEREAS, World Parkinson Disease Day has been observed in many parts of Europe, including the United Kingdom, New Zealand, Slovenia, Israel, Spain, Italy, Czech Republic, Finland, and Sweden; and

WHEREAS, The University of Alabama in Birmingham Medical Center opened a research laboratory in 1997 dedicated to Parkinson research, which has been aided in funding procurement by the considerable efforts of State Legislative and Congressional members; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby designate April 11, 1998, as World Parkinson Disease Day in Alabama, and encourage public awareness of the efforts to control and cure this serious disorder.

Approved March 17, 1998

Time: 9:23 A.M.

Act No. 98-171

S. 233 – Senator Little

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to provide that no general law, or state executive order whose purpose or effect is to require a new or increased expenditure of funds held or disbursed by the governing body of a municipality or county, or an instrumentality thereof, shall become effective as to any municipality or county, or an instrumentality thereof, or until and as long as the Legislature appropriates funds for the purpose to the affected municipality, county, or instrumentality and only to the extent and amount the funds are provided, or until a law provides for a local source of revenue within the municipality, county, or instrumentality for the stated purpose and the municipality, county, or instrumentality is authorized to levy and collect the revenue; and to provide for exceptions.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

(a) No general law, or state executive order whose purpose or effect is to require a new or increased expenditure of funds held or disbursed by the governing body of a municipality or county, or an instrumentality thereof, shall become effective as to any municipality or county, or an instrumentality thereof, until approved by an ordinance enacted, or a resolution adopted, by the governing

authority of the affected municipality, county, or instrumentality or until, and only as long as, the Legislature appropriates funds for the purpose to the affected municipality, county, or instrumentality and only to the extent and amount that the funds are provided, or until a law provides for a local source of revenue within the municipality, county, or instrumentality for the stated purpose and the affected municipality, county, or instrumentality is authorized by ordinance or resolution to levy and collect the revenue and only to the extent and amount of the revenue.

(b) This amendment shall not apply to:

(1) A local law requested as defined in Article IV, Section 110, Constitution of Alabama 1901.

(2) An act, state executive order requiring expenditures by a school board.

(3) An act defining a new crime or amending the definition of an existing crime.

(4) An act, statute, executive order enacted, promulgated, or adopted and effective prior to the ratification of this amendment which by its provisions requires expenditures by the county or municipality at any time after the effective date of this amendment.

(5) An act enacted, or state executive order promulgated or adopted to comply with a federal mandate, only to the extent of the federal mandate.

(6) An act adopted or enacted by two-thirds of those voting in each house of the Legislature and any rule or regulation adopted to implement that act or adopted pursuant thereto.

(7) An act determined by the Legislative Fiscal Office to have an aggregate insignificant fiscal impact on affected municipalities, counties, or instrumentalities. For purposes of this subsection, the phrase "aggregate insignificant fiscal impact" shall mean any impact less than \$50,000 annually.

(8) An act of general application prescribing the minimum compensation for public officials.

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, to provide that no general, special, or local law, or state executive order, rule, or regulation, whose purpose or effect is to provide an unfunded mandate for the expenditure of revenue held or disbursed by the governing body of a municipality or county, or an instrumentality thereof, shall take effect unless approved by ordinance or resolution of the local governing body or until and as long as the Legislature appropriates funds for the purpose to the affected local government or until a law provides for a local source of revenue within the municipality, county, or instrumentality for the purpose.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the Senate February 3, 1998

Passed the House as amended March 3, 1998

Senate concurred in House Amendment March 11, 1998

Act No. 98-172

H.J.R. 229 – Rep. Dolbare

HOUSE JOINT RESOLUTION

URGING EACH STATE AGENCY TO POST THE CONTENTS OF SB 16 OF THE 1998 REGULAR SESSION, IF ENACTED, AT EACH BUILDING AT WHICH STATE EMPLOYEES ARE EMPLOYED.

WHEREAS, SB 16 of the 1998 Regular Session would, if enacted, provide a bonus of \$12,500 to state employees retiring between July 2, 1998, and October 1, 1998; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we strongly urge each state agency to post the contents of SB 16, as enacted, at each building and facility at which state employees are employed.

RESOLVED FURTHER, That a copy of this resolution be provided to the appropriate state office for distribution.

Approved March 17, 1998

Time: 2:00 P.M.

Act No. 98-173

H.J.R. 209 – Reps. Penry and McMillan

HOUSE JOINT RESOLUTION

COMMENDING POLICE CHIEF ROBERT WILLIAMS ON HIS PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Police Chief Robert Williams of the Robertsdale Police Department has unselfishly served his community with great dedication and distinction for the past 23 years and, upon the occasion of his retirement at age 66, is deserving of special recognition and highest commendation; and

WHEREAS, Chief Williams, more familiarly known as Bob, is a native of Pensacola, Florida, and served his country with patriotism in the United States Air Force for 22 years, including combat in Vietnam and assignments in military intelligence, thereby attaining the rank of master sergeant before his retirement in 1974; and

WHEREAS, he was employed by the Robertsdale Police Department in 1975, ultimately promoted to Chief of Police in 1977, and has served in continuous perseverance and assistance to the people of the Robertsdale Community; and

WHEREAS, a man of integrity and a highly regarded member of the community, he also played a vital role in the design of Robertsdale City Hall scheduled for construction in 1999, and retains his reputation for unflagging zeal in accomplishing his job; and

WHEREAS, Police Chief Robert Williams is an active member of Rosinton United Methodist Church and indeed exemplifies the dedication of law enforcement officers throughout Alabama who seek to provide the highest level of service and protection to their communities; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Chief Williams is congratulated on the occasion of his well-earned retirement, commended for his superior record of dedicated and highly effective law enforcement service and, by copy of this resolution, extended sincere gratitude and appreciation of the citizens of Robertsdale.

Approved March 17, 1998

Time: 2:01 P.M.

Act No. 98-174

H.J.R. 111 – Rep. Thomas (D)

HOUSE JOINT RESOLUTION

COMMENDING PRESTON AND MELBA PUCKETT ON THEIR 60TH WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are herein extended to Preston and Melba Puckett on the celebration of their 60th Wedding Anniversary; and

WHEREAS, joined in Holy matrimony in Ashville, Alabama, on December 4, 1937, they are the loving parents of son and daughter-in-law, Larry and Linda Puckett; and proud grandparents to Jennifer Lynne Puckett; and

WHEREAS, their lives have been deeply touched and affected by the ministry at Pleasant Hill United Methodist Church in Springville, Alabama, where they faithfully and diligently serve the church; and

WHEREAS, Mr. and Mrs. Puckett have earned respect and admiration with their generous spirit and great sensitivity to the needs of others, and they have provided a warm and loving home firmly grounded on unconditional love; and

WHEREAS, Preston and Melba Puckett have distinguished themselves as highly regarded members of their community, and have set an outstanding example of a cooperative and lasting marital partnership, in which both partners are respected by all who know them; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate Mr. and Mrs. Preston Puckett on their 60th Wedding Anniversary; commend them for achieving a long and happy marriage blessed with children, and rich in friendships; and, by copy of this resolution, extend to them best wishes for happiness and good health in the future.

Approved March 17, 1998

Time: 2.03 P.M.

Act No. 98-175

H.J.R. 143 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. FLOYD JORDAN OF EIGHT MILE, ALABAMA, ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the 50th Wedding Anniversary of Mr. and Mrs. Floyd Jordan of Eight Mile, Alabama, on October 16, 1998; and

WHEREAS, Floyd and Betty Lloyd Jordan were joined in Holy Matrimony on October 16, 1948, in Lucedale, Mississippi, and, through the ensuing years, have shared the accomplishments, happiness, and sorrows encountered in a life of mutual trust and devotion; and

WHEREAS, they have distinguished themselves as valued and respected members of their community and, to all who have witnessed their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, indeed, this happy couple continues to enjoy life to the fullest in a partnership of shared happiness and pleasures as demonstrated through their mutual interest in the preservation of automotive history and their love of antique cars, and as members of the Antique Automobile Club of America and the Deep South Region A.A.C.A.; and

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and a 50th Wedding Anniversary is indeed a cause for great rejoicing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate this exemplary couple, Mr. and Mrs. Floyd Jordan of Eight Mile, Alabama, on their 50th Wedding Anniversary and their long and happy lives together, and extend to them our sincere best wishes for continued good health and happiness in the years to come.

Approved March 17, 1998

Time: 2:04 P.M.

Act No. 98-176

H.J.R. 156 – Rep. Parker (T)

HOUSE JOINT RESOLUTION

CONGRATULATING M. L. ROBERTS AS RECIPIENT OF THE 1997 ALABAMA RETIRED EDUCATOR OF THE YEAR AWARD.

WHEREAS, it is with utmost pride and pleasure that heartiest congratulations are herein extended to M. L. Roberts, who was the recipient of the Alabama Retired Educator of the Year Award on April 1, 1997; and

WHEREAS, Mr. Roberts, who retired from the College of Education as assistant dean for student services and teacher certification office at the University of Alabama (UA) in 1987, has provided exemplary leadership as president of the Tuscaloosa Retired Teacher

Association (RTA), coordinating the preparation, printing, and distribution of the RTA yearbook, as well as its legislative issues; and

WHEREAS, he also succeeded in earning the admiration and respect of the faculty at the University for his distinguished role with the Committee to Develop Criteria and Procedures for the Evaluation of Teacher Training Institute and Programs, procedures currently used by the Alabama Department of Education for program approval; and

WHEREAS, Mr Roberts is a mentor, advisor, and friend to nine United Methodist ministers whom he accompanied to workshops in New York City, Missouri, and Maine, on tours to Greece and the Middle East, and, during a 1989 visit to Rome, was honored with a papal visit; and

WHEREAS, he is the recipient of two prestigious awards from UA, including the Penny Allen and Sullivan Awards, and his dedication and service go beyond the call of duty to step out to fulfill the mission of God's church as a certified lay speaker and Sunday School teacher for 30 years at Trinity United Methodist Church; and

WHEREAS, Mr. and Mrs. Roberts especially enjoy celebrating birthdays and holidays in Tuscaloosa with their son, Marcus Roberts, III; daughter, Melanie O'Rear; and six grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mr. Roberts is commended and thanked for his distinguished record of professional service as an education and as recipient of the Alabama Retired Educator of the Year Award and, by copy of this resolution, extended sincere best wishes for happiness in all future endeavors.

Approved March 17, 1998

Time: 2:05 P.M.

Act No. 98-177

H.J.R. 109 – Reps. McMillan and Penry

HOUSE JOINT RESOLUTION

CONGRATULATING AND HONORING MRS. ERIE HALL MEYER ON THE OCCASION OF HER 90TH BIRTHDAY.

WHEREAS, it is with special commendation and heartiest congratulations that the Legislature of Alabama recognizes Mrs. Erie Hall Meyer on the occasion of her 90th birthday, February 8, 1998, and honors her for her many outstanding contributions to the Gulf Shores community; and

WHEREAS, born February 8, 1908, in McCullough, Alabama, in Escambia County, to the late Lena Belle Wicker and Charles William Hall, Erie Hall Meyer attended Atmore Elementary School, Escambia County High School and, in the tradition of her Great-Grandmother Shiver, graduated from Judson College in 1929; and

WHEREAS, Mrs. Meyer met her husband, the late George Meyer, in Foley where she was teaching and he was working with the U. S. Army Corps of Engineers on the Intracoastal Canal project, and the two were married in February 1954; and

WHEREAS, after teaching for 15 years, Mrs. Meyer returned to Business School in Birmingham and, completing her studies there, went to work for her husband, managing his real estate offices in Mobile and Gulf Shores; and

WHEREAS, in time, George and Erie Meyer envisioned and implemented a long-range plan for community support in the establishment of The George C. Meyer Foundation through which, under the wise leadership and guidance of Mrs. Meyer as president, land has been gifted for use for churches, public beach, municipal parks, school sites, and to benefit The Faulkner State Community College campus, among other benevolent endeavors; and

WHEREAS, indeed, over the years, Erie Hall Meyer has contributed significantly toward improving the quality of life of the Gulf Shores community and its citizens, and through her generous efforts has played a key role in the area's development and well-being; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on this momentous occasion, we hereby extend heartiest congratulations to Mrs. Erie Hall Meyer on her 90th birthday; honor her for her many outstanding contributions to the Gulf Shore community; and, by copy of this resolution, express to her our sincere best wishes for continuing good health and happiness in the years to come.

Approved March 17, 1998

Time: 2:06 P.M.

WHEREAS, it is with gratitude and appreciation that Frances H. Smiley, Group Travel Coordinator of the Alabama Bureau of Tourism and Travel, is commended for her pioneering efforts involving the African American travel market; and

WHEREAS, recipient of the first Tourism and Travel Trailblazer Award presented at the 1997 National Multicultural Tourism Summit held August 14-16, 1997, in New Orleans, Ms. Smiley was employed by the State Department of Finance as the State's first Black Capitol Hostess in 1976; and

WHEREAS, she also serves as the United States and Canadian group tour contact person and is the author of the nation's first Black Heritage Guide; and

WHEREAS, receiving the prestigious Phoenix Award from the American Society of Travel Writers in 1994, the only Alabamian to receive this honor, Ms. Smiley also was elected by Alabama Tourism Professionals to represent the 3rd Congressional District as a delegate at the nation's first White House Conference on Travel and Tourism; and

WHEREAS, she is a member of numerous committees and serves with professionalism as a member of the National Tour Association, American Society of Travel Agents, and Travel Industry of America, among others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Frances H. Smiley is highly commended for the magnitude of her community service with the Alabama Bureau of Tourism and Travel, and it is further directed that a copy of this resolution be presented to her as a symbol of our appreciation and admiration.

Approved March 17, 1998

Time: 2:07 P.M.

Act No. 98-179

H.J.R. 173 – Reps. McMillan and Penry

HOUSE JOINT RESOLUTION

COMMENDING BRANNAN PEDERSEN AS RECIPIENT OF A 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARD.

WHEREAS, Brannan Pedersen, an esteemed resident of Bay Minette, Alabama, and a student at Baldwin County High School, has achieved national recognition for exemplary volunteer service by receiving a 1998 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Miss Pedersen earned this award by holding a day-long fund-raising event to raise money for a father and daughter stricken with the HIV virus; and

WHEREAS, the success of the State of Alabama, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Brannan Pedersen who use their considerable talents and resources to serve others; and

WHEREAS, Miss Pedersen is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Brannan Pedersen is indeed commended as a recipient of a Prudential Spirit of Community Award, and for her outstanding record of volunteer service, peer leadership, and community spirit, and, by copy of this resolution, is extended best wishes for continued success.

Approved March 17, 1998

Time: 2:08 P.M.

Act No. 98-180

H.J.R. 196 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING J. LOWELL ROUNTREE ON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, it is with great pleasure that the Alabama Legislature notes the induction of J. Lowell Rountree into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, a native of Ashford, Alabama, and a graduate of Ashford High School, J. Lowell Rountree has impacted the lives of countless young people through his lengthy and dedicated career as director of Dothan's thriving recreation department until 1977, and in his personal commitment to Alabama youth; and

WHEREAS, over his tenure as recreation director, Mr. Rountree worked diligently to improve Dothan's recreation facilities and, as a result of his tireless efforts, Wiregrass Park was constructed, which

until recently served as home to Dothan's Southern League Dixie Baseball program, and which was changed from a minor league ball park into a multi-field youth facility, following renovation in 1976; he also was instrumental in the development of what is now Westgate Park in Dothan; and

WHEREAS, beyond professional duties and responsibilities, Mr. Rountree played a key role in the development of Dothan's Dixie Youth Baseball program, and was accorded a lifetime membership on the Alabama Dixie Youth Baseball board of directors in recognition of his dedicated efforts; he is also a lifetime member of the Alabama Dizzy Dean Board of Directors; was honored with a lifetime membership in the Dothan High School Quarterback Club, and, most recently, the five-field baseball complex at Dothan's latest recreation jewel, Eastgate Park, was named in his honor, as was the Southern League's 1997 season, when he threw out the first pitch at the new facility on opening day in 1997; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate J. Lowell Rountree on his induction into the 1997 Wiregrass Sports Hall of Fame, and direct that he receive a copy of this resolution as a token of our tribute and esteem.

Approved March 17, 1998

Time: 2:09 P.M.

Act No. 98-181

H.J.R. 137 – Rep. Robinson

HOUSE JOINT RESOLUTION

COMMENDING LEWIS PAYNE FOR OUTSTANDING SERVICE TO THE BRIDGEPORT, ALABAMA, COMMUNITY.

WHEREAS, the Legislature of Alabama, in highest honor and esteem, notes the distinguished tenure of Lewis Payne in municipal leadership of the Bridgeport, Alabama, community; and

WHEREAS, initially appointed to an unexpired term on the Bridgeport City Council, Lewis Payne was subsequently elected and re-elected to the office and will have served nine terms, or 36 years, as a councilman by the end of his present term; and

WHEREAS, over his distinguished tenure in office, Mr. Payne has contributed significantly toward improving the quality of life for the community and its citizens and, through his efforts, has earned the high regard and respect of all with whom he has been associated; and

WHEREAS, among many notable accomplishments during his tenure have been a new city hall, the new Bridgeport utilities office, the Bridgeport Municipal Park, and one of his most prized achievements, the paving of Bridgeport streets; and

WHEREAS, over his career, Lewis Payne, a native of Bridgeport, has been in the grocery business, coal business, and in the construction business for over 50 years; he is a highly decorated veteran of World War II, serving as a member of the United States Army in France and Germany, and earning three battle stars at the Battle of the Bulge; a member of the Church of Christ, the VFW, and a lifetime member of the DAV and American Legion; and is a devoted family man to his beloved and supportive wife, Charlise, and sons, Bill and Gary; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exemplary public service to the Bridgeport community and its citizenry, highest commendation is hereby accorded Lewis Payne of Bridgeport, whom we hold in highest regard and for whom a copy of this resolution shall be provided.

Approved March 17, 1998

Time: 2:10 P.M.

Act No. 98-182

H.J.R. 141 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. HENRY MCCRORY OF DAPHNE, ALABAMA, ON THE OCCASION OF THEIR 56TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the 56th Wedding Anniversary of Mr. and Mrs. Henry McCrory of Daphne, Alabama, on August 28, 1998; and

WHEREAS, Henry and Naomi Bell McCrory were joined in Holy Matrimony on August 28, 1942, in Pascagoula, Mississippi, and, through the ensuing years, have shared the accomplishments, happiness, and sorrows encountered in a life of mutual trust and devotion; and

WHEREAS, they have distinguished themselves as valued and respected members of their community and, to all who have witnessed their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, indeed, this happy couple continues to enjoy life to the fullest in a partnership of shared happiness and pleasures as demonstrated through their mutual interest in the preservation of automotive history and their love of antique cars, and as members of the Antique Automobile Club of America and the Deep South Region A.A.C.A.; and

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and a 56th Wedding Anniversary is indeed a cause for great rejoicing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate this exemplary couple, Mr. and Mrs. Henry McCrory of Daphne, Alabama, on their 56th Wedding Anniversary and their long and happy lives together, and extend to them our sincere best wishes for continued good health and happiness in the years to come.

Approved March 17, 1998

Time: 2:11 P.M.

Act No. 98-183

H.J.R. 171 – Rep. Johnson (R)

HOUSE JOINT RESOLUTION

COMMENDING IMESIA THOMAS AS RECIPIENT OF A 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARD.

WHEREAS, Imesia Thomas, an esteemed resident of Sylacauga, Alabama, and a student at Mountainview School, has achieved national recognition for exemplary volunteer service by receiving a 1998 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Thomas earned this award by launching a school beautification program to clean up the campus and plant flowers around her school; and

WHEREAS, the success of the State of Alabama, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Imesia Thomas who use their considerable talents and resources to serve others; and

WHEREAS, Ms. Thomas is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Imesia Thomas is indeed commended as a recipient of a Prudential Spirit of Community Award, and for her outstanding record of volunteer service, peer leadership, and community spirit, and, by copy of this resolution, is extended best wishes for continued success.

Approved March 17, 1998

Time: 2:12 P.M.

Act No. 98-184

H.J.R. 178 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING JAMES E. REEVES ON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, a native and lifelong resident of Dothan, James E. (Jim) Reeves attended Geneva County High School; received his B. S. degree in physical education from Troy State University; and later an M. A. degree in school administration from The University of Alabama; and

WHEREAS, in a distinguished career spanning more than 33 years in public education, Jim Reeves enjoyed successful tenures as a coach at Seminole County High School in Donalsonville, Georgia, where he began his career, and at Midland City High School, where in his first year as head coach, he led his team to an impressive 7-2-1 record and, in his final three years, while coaching three sports without assistance, his football team won over 60 percent of its games; the basketball team over 80 percent; the B teams in both sports captured the conference tournament; the baseball team won over 50 percent of its games; and track participants made a strong showing in conference competition; it is further noteworthy that Coach Reeves played a prominent role in the creation of the Wiregrass Athletic Conference; and

WHEREAS, following a lengthy career in coaching, Mr. Reeves moved into school administration, serving successively as principal of Abbeville Elementary School (1956-66); as assistant school superintendent for Henry County (1966-68), and superintendent in 1968; as principal of Charles Henderson High School in Troy (1969-73); and thereafter as director of Personnel Services at Troy State University until his retirement; and

WHEREAS, Coach Reeves is indeed an exemplar of extraordinary leadership ability and significant achievement who is decidedly

deserving of membership in the Wiregrass Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate and commend Coach James E. (Jim) Reeves on his induction into the 1997 Wiregrass Sports Hall of Fame, and direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 17, 1998

Time: 2:13 P.M.

Act No. 98-185

H.J.R. 195 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING PAUL TERRY ON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, it is with great pleasure that the Alabama Legislature notes the induction of Paul Terry into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, a native of Moulton, Alabama, and a graduate of Auburn University, Paul Terry received wide acclaim when he surpassed the 200-win mark in his long and illustrious coaching career while serving as athletic director and head football coach at Carroll High School in Ozark, Alabama; and

WHEREAS, Coach Terry was the recipient of numerous awards and distinctions over his tenure at Carroll High, including South Alabama Conference Coach of the Year honors in 1963 and 1967, and selection for the staff of the South team in the Alabama High School Athletic Association All-Star Game in 1973; and

WHEREAS, over his lengthy and dedicated tenure, Coach Terry greatly impacted the lives of countless young athletes under his tutelage and care, many of whom went on to enjoy celebrated careers on the college level, and he is indeed a worthy recipient of this notable and prestigious honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend and congratulate Coach Paul Terry on his induction into the 1997 Wiregrass Sports Hall of Fame, and direct that he receive a copy of this resolution as a token of our tribute and esteem.

Approved March 17, 1998

Time: 2:14 P.M.

Act No. 98-186

H.J.R. 201 – Rep. Knight (J)

HOUSE JOINT RESOLUTION

COMMENDING JOHN CHARLES PATRICK, SR., ON HIS 80TH BIRTHDAY.

WHEREAS, it is indeed a pleasure to recognize Mr. John Charles Patrick, Sr., on the celebration of his 80th birthday on March 10, 1998; and

WHEREAS, Mr. Patrick, who worked tirelessly and with unselfish devotion as a meat cutter at Swift Meat Packing for 37 years and as a milk tender at Winn Dixie until his retirement, also served his country with patriotism and honor in the United States Army during the Korean Conflict; and

WHEREAS, a devoted Deacon, Trustee, and member of the Financial Committee at Beulah Baptist Church for more than 50 years, he has indeed earned respect and admiration with his generous spirit and great sensitivity to the needs of others; and

WHEREAS, it is a well-known fact that some people improve with age, and Mr. Patrick ranks high among those who still lead a full life, and maintain a good sense of humor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in most heartily congratulating Mr. John Charles Patrick, Sr., on his 80th birthday, and do further direct that he receive a copy of this resolution of sincere personal regard.

Approved March 17, 1998

Time: 2:15 P.m.

Act No. 98-187

H.J.R. 208 – Rep. Rogers (J)

HOUSE JOINT RESOLUTION

HONORING DR. DAVID F. GREER FOR HIS YEARS OF SERVICE TO THE UNIVERSITY OF ALABAMA SCHOOL OF DENTISTRY.

WHEREAS, on the occasion of his retirement, it is with highest commendation that the Alabama Legislature recognizes Dr. David F. Greer, current Assistant Dean for Student and Alumni Affairs, for his distinguished career with the University of Alabama School of Dentistry, Birmingham, Alabama, and

WHEREAS, serving with honor and distinction, Dr. Greer spent thirty years in devoted service to the University of Alabama School of Dentistry, serving as Instructor, Assistant Professor, Associate Professor, Professor, Director of Student Affairs, Director of Alumni Affairs, and most recently as the Assistant Dean for Student and Alumni Affairs, and

WHEREAS, Dr. Greer, received many honors in his thirty year career with the University of Alabama School of Dentistry. For six years, he was the recipient of the Dedication of the Dental Yearbook. He held an Honorary Membership in the "A" Club at the University of Alabama. He received the Outstanding Alumni Award from Chi Tau Chapter of Psi Omega, was a recipient of the Fuller Award and to recognize his unusual accomplishments in teaching he was a recipient of UAB's President's Award for Excellence in Teaching, and

WHEREAS, Dr. Greer, during his teaching career, gave lectures in Dental Radiology, his main area of research, and gave clinical instruction to dental students, dental assistant trainees, and dental hygiene students. Also, he was the Faculty Supervisor for many honor students over a thirteen year period. For twenty five years he served as a liaison between the School of Dentistry and the State of Alabama Board of Dental Examiners and was Coordinator for Clinical part of the State Dental Board Examinations, and

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, that in tribute to his many accomplishments, and in appreciation of his immeasurable contributions to the many students of the University of Alabama School of Dentistry, Dr. David F. Greer is hereby extended the highest commendation for his devoted service to the citizens of the Great State of Alabama.

BE IT FURTHER RESOLVED, that a copy of this resolution of deepest gratitude be prepared for presentation to Dr. David F. Greer on the occasion of his retirement.

Approved March 17, 1998

Time: 2:16 P.M.

Act No. 98-188

H.J.R. 102 – Rep. Vance

HOUSE JOINT RESOLUTION

NAMING AND DESIGNATING THE JAMES S. "JIMMY" CLARK HIGHWAY.

WHEREAS, the Honorable James S. "Jimmy" Clark has diligently devoted a significant part of his life to the people of the 84th

District and the citizens of Alabama as a member of the Alabama Senate for four consecutive terms (1959-1975), the Alabama House of Representatives for an additional four terms (1983-1998), and as Speaker of the House for an unprecedented three terms; and

WHEREAS, reflective of his successful tenure in the Alabama Legislature has been the exemplary leadership he provided as Chairman of the Senate Rules Committee for 12 consecutive years, as Chairman of the House Rules Committee from 1983 to 1986, and, most especially, as Speaker of the House of Representatives since 1987; and

WHEREAS, indeed, Speaker Clark is a distinguished Alabamian whose leadership and accomplishments have been widely acknowledged and beneficial to all Alabamians and it is with sincere gratitude and esteem that this legislative body deems it appropriate to honor his service in a continuing and enduring manner; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby name and designate U. S. Highway 431 south of Phenix City to the Barbour County line as the "James S. 'Jimmy' Clark Highway."

BE IT FURTHER RESOLVED, That appropriate authorities are encouraged to erect and maintain signs identifying this designation of honor.

Approved March 17, 1998

Time: 2:17 P.M.

Act No. 98-189

H.J.R. 136 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING FRED KELLY ON HIS OUTSTANDING CAREER AS A REFEREE.

WHEREAS, Fred Kelly, a life-long resident of Limestone County, is a well-known referee in Alabama and Tennessee, and it is appropriate at this time to highlight his many achievements and to extend public recognition and commendations to him for his professional leadership; and

WHEREAS, Mr. Kelly began his successful career as a referee in 1947 and has called Farm league, high school, college, and independent games, as well as baseball, men's fast and slow pitch, and girls' softball; and

WHEREAS, averaging 100 games a year, Mr. Kelly often worked six days a week with two to five games per day, and his experience, dedication, and leadership as a referee endears him to players, coaches, and his many sport fans; and

WHEREAS, one of his most memorable tales was concerning a lady who took exception to a game call he had made and said: "If you were my husband, I'd poison your coffee tonight when you got home;" to which his quick reply was, "Ma'am, if you were my wife, I'd drink it"; and

WHEREAS, Fred Kelly has served as an exemplary referee and is indeed deserving of highest praise for his outstanding professional achievements and contributions to young athletes in Alabama and Tennessee; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby acknowledge and applaud the many career achievements of Referee Fred Kelly and, by copy of this resolution, convey to him the gratitude of the public and best wishes for continued success.

Approved March 17, 1998

Time: 2:18 P.M.

Act No. 98-190

H.J.R. 159 – Reps. Hinshaw and Hall (A)

HOUSE JOINT RESOLUTION

COMMENDING THE 1997-98 LADY WOLVES AND WOLVES ON THEIR RIVERTON MIDDLE SCHOOL BASKETBALL CHAMPIONSHIPS.

WHEREAS, the Alabama Legislature hereby commends both the Riverton Middle School 8th grade Lady Wolves and 7th grade Wolves basketball teams on winning outstanding basketball championships on February 5, 1998; and

WHEREAS, capturing a 26-0 record for the Lady Wolves and a 23-3 record for the Wolves, this spectacular 1998 championship again showcased the exceptional skill and talent of Coach Jerry Taylor; and

WHEREAS, this exceptional group of Lady Wolves include Jenna Whisenant, Jennifer Johnson, Alex Brazelton, Ashley Lancaster, Brittany Pinchon, Amy Sloan, Brandi Fears, Leslie Dean, and Christen Chaney; and managers, Miranda Vickers and Angela Whitaker; and

WHEREAS, contributing to the outstanding accomplishments of the Wolves team are Brian Strong, Jamie Tate, Zak Brandon, Kevin Ruffin, Tyler Dunaway, Adonis Taylor, Chad Rogers, Tearro Friend, Adam Alexander, and Adam Elmore; and managers, Leamon Baker and Michael Kelly; and

WHEREAS, commended for their spirited leadership of students and fans during pep rallies and games are cheerleaders Nikki Moore, Lindsay Wilson, Talia Latini, Brooke Browning, Jennifer Kranz, Brie Walling, Ashley Drake, Holly Parker, Laura Swinea, Krysti Kennemer, Ashley Lowhorne, Mindy Watwood, and Melinda Cuffy; and sponsor Kay Scott; and

WHEREAS, the supporters of Riverton Middle School athletics, including the Alabama Legislature, are justly proud of the Lady Wolves and Wolves basketball teams, and wish to express their appreciation and continued support; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Lady Wolves and Wolves basketball teams are commended for the exemplary manner in which they have represented their school and community, and it is further directed that a copy of this resolution be presented to Principal Richard Medlen for appropriate school display.

Approved March 17, 1998

Time: 2:19 P.M.

Act No. 98-191

S. 478 – Senators Butler, Mitchell, Denton, Dial, Smith, Freeman, Lindsey, Windom, Adams, Roberts, Escott-Russell, Langford, Ghee, Mitchem, McClain, Hill, Biddle and Waggoner

AN ACT

Relating to the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act; to amend Sections 40-2A-5, 40-2A-6, and 40-2A-10, Code of Alabama 1975, to provide for the issuance of expedited revenue rulings; to prohibit contingent fee arrangements for appeals or hearings officers; to prohibit government entities from charging a taxpayer with certain costs associated with an examination, except in limited circumstances; to authorize the exchange of examination information concerning a taxpayer between government agencies and prescribe a fee for any information exchange; to prescribe a penalty for wrongful disclosure of taxpayer information; to add Sections 40-2A-12, 40-2A-13, 40-2A-14, 40-2A-15, and 40-12-43.1 to Title 40, Code of Alabama 1975, to provide for the licensing and bonding of private examining firms working on behalf of local governments; to require examiners to meet continuing professional education requirements; to clarify procedures for issuing refunds to

taxpayers; to limit the frequency of examinations; to require written disclosure to the taxpayer of the identity of the government entities represented by the examiner; to provide certain other taxpayer examination protections; and to prescribe penalties for violation of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and cited as the “Local Tax Procedures Act of 1998.”

Section 2. Section 40-2A-5, Code of Alabama 1975, is amended to read as follows:

“§40-2A-5.

“(a) The commissioner may, in addition to all other powers and authority now granted by law, issue “revenue rulings” describing the substantive application of any law or regulation administered by the department. Revenue rulings may also govern procedures applicable to the department, and in that event, shall be called “revenue procedures.” Revenue rulings shall be binding on the department and the state, its political subdivisions, and taxing authorities only with respect to the taxpayer making the request and only with respect to the facts contained in the request. A revenue ruling shall constitute the department’s interpretation of the law or regulations as applied to the facts contained in the request, but only pertaining to the particular facts described in the request, and only to the taxpayer making the request.

“(b) Revenue rulings may be issued only if no taxes have accrued with respect to the transactions, events, or facts contained in the request at the time of the issuance of the ruling.

“(c) Revenue rulings may be revoked or modified by the commissioner at any time; but any revocation or modification shall not be effective retroactively unless one of the following has occurred:

“(1) The person making the request misstated or omitted facts material to the ruling.

“(2) The ruling was issued with respect to a matter involving the computation or payment of a tax that was due and payable at the time the ruling was requested.

“(3) The law applied by the commissioner in the revenue ruling is changed in a manner to alter the commissioner’s conclusions in the ruling and the change in the law is made effective as of the date of the ruling.

“The taxpayer may petition for a hearing with the administrative law division to determine the propriety, under subsections (a), (b), or (c), of any retroactive revocation of a ruling.

“(d) All revenue rulings issued by the department shall be published, maintained as a public record, and made available by the department for public inspection and copying, within a reasonable time following their issuance, at a reasonable cost to be determined by the department. Prior to publication, the department shall delete from the text of the ruling all names, addresses, titles, figures, dates, and other information which may identify the particular taxpayer who requested the ruling. If a revenue ruling contains trade secrets or other confidential information, the department shall, upon written request of the taxpayer, delete that information prior to publication.

“(e) Requests for revenue rulings shall be submitted in writing to the secretary in the form and manner as prescribed by department regulations, accompanied by a fee of two hundred dollars (\$200). The commissioner shall either issue or refuse to issue a ruling within 120 days after receipt of the request unless the taxpayer consents to an extension of time. If the commissioner refuses to issue a ruling within the time prescribed, the two hundred dollar (\$200) fee shall be refunded to the taxpayer. A request may be withdrawn at any time prior to the issuance of the requested ruling, in which case there shall be no refund of the two hundred dollar (\$200) fee.

“(f) Revenue rulings shall be issued in the name of the commissioner.

“(g) Subject to the provisions of this section, the commissioner may also issue a revenue ruling in response to a written request by a governing body of a self-administered county or municipality, or by a taxpayer, regarding the substantive application of a sales, use, rental, or lodgings tax levied by or on behalf of the self-administered municipality or county; provided, however, that the commissioner may not (i) issue a revenue ruling interpreting any tax levied by or on behalf of a self-administered municipality or county which levies a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), or (ii) issue a revenue ruling that would establish a rule of nexus determining the locality to which sales and use taxes, or gross receipts taxes in the nature of a sales tax as defined by Section 40-2A-3(8), are due if the locality is a self-administered county or municipality, as defined by Section 40-2A-3(20). Revenue rulings shall be binding on a self-administered county or municipality only with respect to the specific taxpayer making the request and only with respect to the specific facts contained in the request. Any ruling shall, if the other requirements of this section are met, be issued within 45 days of receipt of the request, and if the requesting party is a self-administered municipal or county governing body, the fee for issuance of

the ruling shall be waived. If the requesting party is a taxpayer, the department shall, promptly upon receipt, forward a copy of the ruling request to the appropriate municipal or county governing body and shall consult with and accept written comments from representatives of the municipality or county prior to issuance of the ruling."

Section 3. Section 40-2A-6, Code of Alabama 1975, is amended to read as follows:

"§40-2A-6.

"(a) The state or any county or municipal governing authority may not enter into any contract or arrangement for the examination of a taxpayer's books and records if any part of the compensation or other benefits paid or payable for the services of the private examining or collecting firm conducting the examination is contingent upon or otherwise related to the amount of tax, interest, court cost, or penalty assessed against or collected from the taxpayer. Any such contract or arrangement, if made or entered into, is void and unenforceable. Any assessment or preliminary assessment of taxes, penalties, court costs, or interest proposed or asserted by, or based upon the recommendation of, a private examining or collecting firm compensated under any such contract or arrangement shall be void and unenforceable. This provision does not prohibit or restrict the state or any county or municipal governing authority from entering into contracts or arrangements for the collection of any tax, interest, court cost, or penalty when the private examining or collecting firm has no authority to determine the amount of tax, interest, court cost, or penalty owed the state, county, or municipal governing authority.

"(b) The compensation or other benefits paid or payable to any employee or other agent of a private examining or collecting firm or to any employee or other agent of the state or county or municipal governing authority serving in the capacity of a hearings or appeals officer, including an attorney serving in that capacity, may not be contingent upon, in whole or in part, or otherwise related to, the amount of tax, interest, court cost, or penalty assessed against or collected from the taxpayer. Any contract or arrangement based, in whole or in part, on any such contingency is void and unenforceable. Any assessment or preliminary assessment of taxes, penalties, court cost, or interest proposed or asserted by or upon the recommendation of a private examining or collecting firm, compensated under any such contract or arrangement, is void and unenforceable.

"(c) Any person violating this section, for each violation, shall have committed a Class A misdemeanor. Violators shall also forfeit

any certification granted under Section 40-2A-14. Any private examining or collecting firm that violates subsections (a) or (b) shall forfeit its license issued under Section 40-12-43.1 until such time as it and each of its examiners or other employees or agents involved in the violation meet any remedial requirements prescribed by the board created under Section 40-2A-15. This provision may not, however, preclude employees of a private examining or collecting firm from participating in a profit-sharing arrangement generally made available to other employees of the firm who are not engaged in examining taxpayers' books and records, provided that the formula utilized in calculating the profit-sharing allocations is based primarily on the overall profitability of the firm and secondarily on non-monetary criteria such as age or years of service.

“(d) Except as otherwise provided in this subsection, the state or any county or municipal governing authority may not assess or attempt to assess a taxpayer for any costs incurred by, or charged to, the state, county, or municipality in connection with performing an examination of the taxpayer's books and records, including lodging, meals, or mileage charges, and any assessment or proposed assessment of such costs is void and unenforceable. A self-administered county or municipality may, however, assess and collect from the taxpayer the reasonable costs, based on the then current state government employee per diem rates incurred by, or charged to, the county or municipality in connection with performing an examination of the taxpayer's books and records, if the taxpayer received notice by certified U.S. mail, return receipt requested, at least 30 days prior to the date on which the examination was to commence and the taxpayer either failed or refused to respond or did not propose a reasonable alternative date on which the examination was to commence within 15 days of receipt of notice of the pending examination, or the taxpayer and the self-administered county or municipality agreed in writing as to an alternative date on which the examination was to commence but the taxpayer then failed or refused to permit reasonable access to its books and records on the alternative date. This subsection does not apply to examinations of the books and records of a taxpayer with respect to the insurance premium license tax levied by Chapter 4A, Title 27, or examinations for gasoline or motor fuel taxes if authorized by local law in effect on the effective date of this amendatory act.”

Section 4. Section 40-2A-10, Code of Alabama 1975, is amended to read as follows:

“§40-2A-10.

“(a) Except as provided in subsections (b) and (c), it shall be unlawful for any person to print, publish, or divulge, without the

written permission or approval of the taxpayer, the return of any taxpayer or any part of the return, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the department, or upon order of any court, or as otherwise allowed in this section. Statistical information pertaining to taxes may be disclosed at the discretion of the commissioner or his or her delegate or to the legislative or executive branch of the state. The commissioner or his or her delegate may make written or verbal disclosure upon request as to the status of compliance with those requirements contained in Chapter 14 of this title for all domestic and foreign corporations doing business in the state. A good standing certificate shall be issued to a requesting person with respect to a corporation if the corporation has filed all state franchise tax returns due and paid the taxes shown as payable in accordance with those returns. Any person violating the provisions of this section shall, for each act of disclosure, have committed a Class A misdemeanor.

“(b) This section shall not apply to returns filed and information secured under laws of the state (i) governing the registration and titling of motor vehicles, (ii) levying or imposing excise taxes or inspection fees upon the sale of, use, and other disposition of gasoline and other petroleum products, (iii) governing the licensing of motor vehicle dealers, reconditioners, rebuilders, wholesalers, and automotive dismantlers and parts recyclers, or (iv) governing the privilege licenses as provided in Chapter 12, other than Article 4, of this title.

“(c) Except as otherwise provided in Section 40-2A-9(m), the orders of the administrative law judge and all evidence, pleadings, and any other information offered or submitted in any appeal before the administrative law division are not subject to this section.

“(d) The commissioner shall promulgate reasonable regulations permitting and governing the exchange of tax returns, information, records, and other documents secured by the department, with tax officers of other agencies of the state, municipal, and county government agencies in the state, federal government agencies, any association of state government tax agencies, any state government tax agencies of other states, and any foreign government tax agencies. However, (i) any tax returns, information, records, or other documents remain subject to the confidentiality provisions set forth in subsection (a); (ii) the department may charge a reasonable fee for providing information or documents for the benefit of self-administered counties and municipalities; (iii) self-administered counties and municipalities may charge a reasonable fee for providing information or documents

for the benefit of the department; and (iv) any exchange shall be for one or more of the following purposes:

“(1) Collecting taxes due.

“(2) Ascertaining the amount of taxes due from any person.

“(3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a federal, state, county, municipal, or foreign government agency.

“(e) Nothing herein shall prohibit the use of tax returns or tax information by the department or county tax collecting officials in the proper administration of any matter administered by the department or county tax collecting officials. The department, a municipality, or county tax official may also divulge to a purchaser, prospective purchaser, as defined pursuant to the regulations of the department, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser, as defined pursuant to the regulations of the department, or successor may be liable pursuant to Sections 40-23-25, 40-23-82, or 40-12-224. This section shall not preclude the inspection of returns by federal or foreign state agents pursuant to Section 40-18-53.

“(f) Nothing herein shall prohibit the exchange of information between and among county or municipal governments, provided that any exchange shall be subject to the same restrictions and criminal penalties imposed on the department and its personnel as described in this section.

“(g) In no event shall any damages, attorney fees, or court costs be assessed against the state, a county, or a municipal government under this section, nor shall any damages, attorney fees, or court costs be assessed against elected officials, officers, or employees of a state, county, or municipal government.”

Section 5. The following new Sections 40-2A-12, 40-2A-13, 40-2A-14, and 40-2A-15 are added to Chapter 2A, Title 40, Code of Alabama 1975, to read as follows:

§40-2A-12.

No contract between a self-administered municipality or county and a private examining or collecting firm entered into for the purpose of examining or collecting municipal or county taxes shall have a term in excess of three years, including any renewal or extension options, and any contract between a self-administered municipality or county and a private examining or collecting firm shall terminate automatically, whether or not it is stated in the

contract, if the private examining or collecting firm loses or forgoes its license under Sections 40-2A-13 or 40-2A-14. The limitation on the term of a contract between a self-administered county or municipality and a private examining or collecting firm does not prohibit the negotiation of a new contract between the parties following expiration of a properly executed contract.

§40-2A-13.

(a) The Department of Revenue, a governing body of a self-administered county or municipality, or an agent of such a municipality or county may not conduct an examination of a taxpayer's books and records for compliance with applicable sales, use, rental, or lodgings tax laws except in accordance with this section and with the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act.

(b) Additional sales, use, rental, or lodgings tax may be assessed by the Department of Revenue, a governing body of a self-administered county or municipality, or an agent of such a municipality or county within any applicable period allowed pursuant to Section 40-2A-7(b), even though a preliminary or final assessment has previously been entered by the Department of Revenue, a governing body of a self-administered county or municipality, or an agent of such a municipality or county against the same taxpayer for the same or a portion of the same tax period. No taxpayer, however, shall be subject to unnecessary examination or investigation, and no more than one examination of a taxpayer's books and records by each respective taxing entity relating to each type of tax shall be made every three taxable years, unless the taxpayer requests otherwise or unless the commissioner, or the corresponding governing body of a self-administered county or municipality, after investigation, notifies the taxpayer in writing that an additional examination is necessary, together with the basis or bases for the additional examination.

(c) The Department of Revenue and each governing body of a self-administered county or municipality shall promulgate regulations or procedures consistent with those followed by the Internal Revenue Service with respect to second examinations of a taxpayer's books and records. Provided, however, an examination of a taxpayer's books and records may be conducted and shall not constitute an unnecessary examination pursuant to this section or the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act if the examination is necessary to meet one or more of the following criteria: (i) fulfill an obligation to another state pursuant to a Southeastern Association of Tax Administrators ("SEATA") exchange of information agreement or to the Multistate Tax Commission; (ii) follow up on leads furnished by

the Multistate Tax Commission or pursuant to a SEATA exchange agreement; (iii) verify a direct or joint refund claim and to determine if there is any offsetting tax liability to be credited against or that may exceed the refund claim; (iv) secure a tax return and the tax, penalty, interest, and service charge, if any, due thereon for any reporting period for which the taxpayer has failed to file a return by the due date of the return; (v) collect any tax, penalty, interest, or service charge which the taxpayer has failed to remit within 30 days after receiving notification that the amount is due; (vi) secure a corrected return and the additional tax, penalty, interest, or service charge due thereon, if any, when the taxpayer has failed to file a corrected return and remit any additional amount due thereon within 30 days of receiving a request for a corrected return; (vii) collect any tax due based upon substantial evidence of fraud or tax evasion discovered since the prior examination, and then only if the Department of Revenue or the governing body of the self-administered municipality or county explains to the taxpayer in writing the basis for the alleged fraud or tax evasion; or (viii) follow up on representations by the taxpayer that it is going out of business or the taxpayer has gone out of business.

(d) Any person examining a taxpayer's books and records on behalf of a self-administered municipality or county shall disclose in writing, upon first contact with the taxpayer, the identity of the self-administered municipalities and counties represented, and provide written authorization, or a copy of written authorization, from each self-administered municipality and county represented.

(e) On or before January 15 of each year, beginning in 1999, each private examining or collecting firm shall disclose in writing to the department, and to the self-administered municipalities and counties it represents as of the date of disclosure, the identity of all municipalities and counties for which it at any time during the preceding calendar year performed examinations of taxpayers' books and records for compliance with applicable sales, use, rental, or lodgings tax laws or collected sales, use, rental, or lodgings taxes.

(f) A private examining or collecting firm representing more than one self-administered municipality or more than one self-administered county on the date of the first contact with a taxpayer shall examine the taxpayer's books and records for all such self-administered municipalities and counties simultaneously. A private examining or collecting firm or its examiners or other agents may not disclose or encourage others to disclose, either directly or indirectly, to any non-client municipality or county or its agents, the fact that the firm is presently conducting an examination of the taxpayer's books and records.

(g) If a private examining or collecting firm is engaged by a self-administered municipality or county not represented by the firm on the date of the first contact with the taxpayer, and is not in violation of subsection (f), the private examining or collecting firm may conduct an examination of the taxpayer's books and records on behalf of the newly-represented self-administered municipality or county, but the examination may not commence until at least one year following the date of completion of the previous examination, as certified in writing by the private examining or collecting firm to the taxpayer, unless one of the grounds for early examination described in subsection (c) exists, or unless the one-year delay would result in the closing of a tax year by virtue of the applicable statute of limitations and the taxpayer fails or refuses, within a reasonable time after written request, to agree in writing to a one-year extension of the applicable statute of limitations in favor of the newly-represented self-administered municipality or county.

(h) Whenever the private examining or collecting firm becomes aware that a taxpayer may be owed a refund by, or may owe tax to, one or more self-administered counties or municipalities represented by the firm, the firm shall promptly notify the taxpayer in writing and, simultaneously, the respective self-administered counties and municipalities, of the reason or reasons for, and the estimated amount of, the refund due or tax owed and shall also advise the taxpayer of the general procedure by which to make a claim for refund or pay the tax. If the private examining or collecting firm refuses or willfully fails to comply with this subsection, and the taxpayer ultimately receives a refund from or pays a tax to a self-administered county or municipality represented by the firm during the course of an examination of more than one hundred dollars (\$100) of taxes for which the firm examined the taxpayer's books and records, the firm shall forfeit its license granted pursuant to Section 40-12-43.1 for a period of six months, and each examiner who participated in the examination of the taxpayer's books and records, but did not advise the firm in writing of the possible refund due or tax liability owed at, or prior to completion of, the examination, shall forfeit his or her license granted under Section 40-12-43.1 for a period of six months. At the expiration of the suspension period, any examiner or private examining firm desiring to reinstate their license must reapply under the provisions of Section 40-12-43.1.

§40-2A-14.

(a) Except as provided in subsection (c), any examiner employed by a private examining or collecting firm to examine books and records of taxpayers on behalf of any self-administered county or municipality shall be certified by the Alabama Local Tax Institute of Standards and Training established pursuant to Section 40-2A-15.

Any examiner employed by a private examining or collecting firm to examine books and records of taxpayers on behalf of any self-administered county or municipality as of the date this act becomes law shall have two years from the effective date of the rules and regulations of the certification program to obtain the certification required by this subsection and may continue to conduct examinations during this two-year period.

(b) Except as provided in subsection (c), every private examining or collecting firm shall maintain fidelity bonds with respect to each of its examiners, in accordance with Section 40-23-30. A private examining or collecting firm may not employ unbonded examiners, or examiners who have failed to receive or maintain their certification under subsection (a). Any violation of this subsection of which the private examining or collecting firm knew or should have known shall have the effect of doing all of the following:

(1) Automatically terminate any contract or arrangement between a self-administered county or municipality and the private examining or collecting firm.

(2) Void any assessment or proposed assessment issued by the self-administered county or municipality or its agent as a result of any examination conducted, in whole or in part, by the examiner, but shall not prohibit a self-administered county or municipality from sending a qualified examiner to reexamine the taxpayer's books and records even though the required waiting period between examinations has not expired or the applicable statute of limitations has expired with respect to the period at issue.

(3) Cause the private examining or collecting firm to forfeit its license granted pursuant to Section 40-12-43.1 for a period of six months.

(c) Certified public accountants and public accountants licensed by the State Board of Public Accountancy are exempt from the following requirements:

(1) To be certified by the Alabama Local Tax Institute of Standards and Training pursuant to subsection (a).

(2) To maintain fidelity bonds with respect to each of its examiners pursuant to subsection (b).

(d) At the expiration of any suspension period, any examiner or private examining or collecting firm desiring to reinstate their license must reapply under the provisions of Section 40-12-43.1. The requirements, restrictions, and penalties imposed by this section and Section 40-2A-13 with respect to examiners shall apply equally to those who are employees, as well as those who are independent contractors, of private examining or collecting firms.

§40-2A-15.

(a) There is hereby created the Alabama Local Tax Institute of Standards and Training. All costs of operating the institute shall be paid from public funds appropriated, contributions received, or fees and license revenues collected for this purpose.

(b) The institute shall operate under the direction and supervision of a board of directors. The board shall organize, administer, control, oversee, and advise the institute so that the institute may carry out the purposes of this section. The board shall promulgate reasonable rules and regulations to effectuate this intent.

(c) The board shall consist of six members as follows:

(1) Three representatives appointed by the Alabama League of Municipalities, who shall either be municipal officers, employees, or attorneys, at least one of whom shall be a municipal revenue officer or finance officer.

(2) Three representatives appointed by the Association of County Commissions of Alabama, who shall either be county officers, employees, or attorneys, at least one of whom shall be a county revenue officer or finance officer.

(d) The board may accept appropriations, grants, gifts, donations, or contributions from: the federal government; the state government; a county, municipal, or local government; a board, bureau, commission, agency, or establishment of any such government; any other organization, firm, or corporation, public or private; and an individual or groups of individuals in furtherance of the services, purposes, duties, responsibilities, or functions vested in the board and institute.

(e) The board shall, as its first order of business, develop a proposed examiner certification program for the examiners of private examining or collecting firms. The program shall require minimum qualifications for certification, which shall include at least two years of governmental examining experience or a bachelor's degree in accounting from an accredited university or college and satisfactory completion of the certification program adopted by the board. The program shall also impose continuing education rules which shall be substantially similar to the continuing professional education requirements imposed by the State Board of Public Accountancy with respect to public accountants. Once the board has developed a proposed program, copies thereof shall be distributed for comment to all counties and municipalities, the Business Council of Alabama, the Alabama Retail Association, the Alabama Chapter of the National Federation of Independent Business, and the department. Copies may be sold to other interested parties at cost. Written comments may be submitted to the board within 45 days of initial distribution of the proposed program. Following expiration of the comment period, the board shall

adopt a final examiner certification program to be administered by the institute. Notwithstanding any provision of this subsection to the contrary, any certified public accountant or public accountant who is licensed by the State Board of Public Accountancy shall be exempt from any certification requirement or any separate continuing professional education requirement. When any certified public accounting or public accounting firm is employed for the first time by a self-administered county or municipality for local tax examinations, the firm shall notify the board in writing of such employment.

(f) The institute may, however, contract out the examiner certification program to any one of the following:

(1) The Alabama League of Municipalities or the Association of County Commissions of Alabama, or any successor or assignee to, or designee of, either of those organizations.

(2) Any two-year or four-year college or university in the state.

(3) Any organization which the board believes can and will conduct the program in a manner which is consistent with this section.

Any examiner certification program contracted out pursuant to this subsection shall be conducted pursuant to the rules and regulations promulgated by the board pursuant to subsection (b). The institute or the organization with which it contracts shall be authorized to charge a registration fee to all participants in the certification and continuing education programs.

(g) The board shall also develop for the benefit of all municipal, county, or private examiners conducting examinations of taxpayers' books and records on behalf of self-administered counties and municipalities, a minimum standard examination program, not in conflict with the Alabama Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, to be followed by municipal, county, or private examiners when examining a taxpayer's books and records for compliance with applicable sales, use, rental, or lodgings tax laws of self-administered counties and municipalities. Once the board has developed a proposed program, copies thereof shall be distributed for comment to all counties and municipalities, the Business Council of Alabama, the Alabama Retail Association, the Alabama Chapter of the National Federation of Independent Business, and the department. Copies may be sold to other interested parties at cost. Written comments may be submitted to the board within 45 days of initial distribution of the proposed program. Following expiration of the comment period, the board shall adopt a minimum standard examination program.

Section 6. The following new Section 40-12-43.1 is added to Article 2, Chapter 12, Title 40, Code of Alabama 1975, to read as follows:

§40-12-43.1

Every private examining or collecting firm shall pay a separate annual state license fee of twenty-five dollars (\$25), no later than October 1 of each year or within 30 days of entering into a contract with a county or municipality, with proceeds to be paid by the State Comptroller to the Alabama Local Tax Institute of Standards and Training established under Section 40-2A-15, for the administration of the institute's examiner certification program. If the firm has engaged more than one examiner, each such person so engaged shall pay the separate license fee of twenty-five dollars (\$25) within 30 days of being hired by the private examining or collecting firm. No private examining or collecting firm shall be issued a license unless it is in compliance with the provisions of Title 40, Chapter 2A and this section.

Section 7. The specific provision of any law, including any special or local law, which directly conflicts with this act is hereby repealed to the extent of its conflict; provided, however, that all portions of all laws or parts of any law, including any special or local law, which do not directly conflict with this act remain in full force and effect.

Section 8. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 9. This act shall become effective July 1, 1998, following its passage and approval by the Governor, or its otherwise becoming a law.

Approved March 18, 1998

Time: 9:55 A.M.

Act No. 98-192

S. 456 – Senators Mitchell, Denton, Butler,
Dial, Smith, Freeman, Lindsey,
Windom, Adams, Roberts,
Escott-Russell, Langford, Ghee,
Mitchem, McClain, Hill, Biddle
and Waggoner

AN ACT

To clarify that municipal and county sales, use, rental, and lodgings taxes must generally conform to the corresponding state levies except for the rate of tax; to provide that the Department of Revenue shall, upon the request of a municipal or county government, collect sales, use, rental, or lodgings taxes for that government; to provide that the fee the Department of Revenue receives for collecting a

local tax shall be the lesser of two percent of collections or the actual cost of collection; to provide that filing be simplified by increasing the monthly filing threshold; to provide that a standard form be developed and used for reporting and payment of all local sales, use, rental, and lodgings taxes administered by the Department of Revenue; to provide that a standard form be developed and used for reporting and payment of those sales, use, rental, and lodgings taxes levied by or on behalf of self-administered municipalities and counties; to provide that distribution of local tax revenues collected by the Department of Revenue shall be made in an expedited manner; to establish a delayed effective date; to amend Sections 11-3-11.2, 11-51-180, 11-51-181, 11-51-182, 11-51-183, 11-51-185, 11-51-200, 11-51-201, 11-51-202, 11-51-203, 11-51-204, 11-51-205, 11-51-207, 40-2A-3, 40-23-2.1, 40-23-7, and 40-23-68, Code of Alabama 1975; and to add new Sections 11-3-11.3, 11-51-208, 11-51-209, 11-51-210, and 11-51-211 to Title 11, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be known and may be cited as the "Local Tax Simplification Act of 1998."

Section 2. The Legislature hereby finds and declares that the enactment by this state of a simplified system of local sales, use, rental, and lodgings taxes which may be levied by or for the benefit of municipalities and counties in Alabama effectuates desirable public policy by promoting understanding of and compliance with applicable local tax laws. The Legislature does therefore declare that the provisions of this act are intended to accomplish these purposes.

Section 3. Sections 11-3-11.2, 11-51-180, 11-51-181, 11-51-182, 11-51-183, 11-51-185, 11-51-200, 11-51-201, 11-51-202, 11-51-203, 11-51-204, 11-51-205, and 11-51-207, Code of Alabama 1975, are amended to read as follows:

"§11-3-11.2.

"(a) The county commission may, by ordinance or resolution, administer and collect, or contract for the collection of, any local sales and use taxes or other local county taxes levied or authorized to be levied by a general or local act. Where the county commission provides by ordinance or resolution for the administration and collection of the local taxes, the collection of the local sales and use taxes shall occur at the same time as state sales and use taxes are due to be paid to the Department of Revenue, unless otherwise provided by law.

"(b) Any county commission which elects to administer and collect, or contract for the collection of, any local sales and use taxes or other local taxes, shall have the same rights, remedies, power and authority, including the right to adopt and implement the same procedures, as would be available to the Department of Revenue if the tax or taxes were being administered, enforced, and collected by the Department of Revenue. Any rules and regulations

adopted or utilized by the county or its designee shall be consistent with the rules and regulations adopted through the provisions of the Alabama Administrative Procedure Act by the Department of Revenue for the corresponding state tax. If a specific provision of the rules and regulations of the Department of Revenue is inconsistent with a specific provision of a local act, resolution, or general law authorizing or levying a local tax, including a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), which was enacted or adopted prior to February 25, 1997, the local act, resolution, or general law provision shall prevail. Any taxpayer that possesses a direct pay permit issued by the Department of Revenue shall pay to the county the sales and use taxes and other county taxes pursuant to the direct pay permit in accordance with rules and regulations promulgated by the Department of Revenue.

“(c) In any county in which there exists on February 25, 1997, a local act which authorizes a county commission only to contract with a designee to administer and enforce any tax enacted by the county, the tax or taxes shall continue to be collected and enforced by a designee pursuant to the provisions of the local act, unless the local act is amended to provide otherwise or repealed.

“(d) A county commission which elects to administer and collect, or contract for collection of local taxes pursuant to subsection (a), may retain, as its fee for the cost of collection of its local taxes no more than five percent of the tax proceeds or the county’s actual cost of collection, whichever is less. Notwithstanding the previous sentence, in any county in which there exists on February 25, 1997, a local act which establishes or limits the amount which can be retained by the county for costs of collection or which limits the amount that can be paid by the county to a designee for providing collection and enforcement services, the provisions in the local act with regard to the costs and amounts shall continue to have force and effect unless the local act is amended to provide otherwise or is repealed.

“§11-51-180.

“(a) The Department of Revenue shall, upon request by ordinance or resolution of the governing body of any municipality and the filing of a certified copy of the enabling ordinance or resolution with the Department of Revenue, collect all municipal privilege or license taxes in the nature of a sales or use tax levied or assessed by a municipality under the provisions of a municipal ordinance or resolution duly promulgated and adopted by the governing body of the municipality, or levied by past or future special or local acts of the Legislature. Except as set out below and as otherwise provided

in this section, the levy shall parallel the corresponding state levy except for the rate of the tax and shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, direct pay permit and drive-out certificate procedures, provisions, statutes of limitation, penalties, fines, punishments, and deductions as are applicable to the state sales and use tax. This subsection shall not apply to municipal gasoline or motor fuel taxes, privilege or business license taxes levied on a business for the privilege of doing business within the municipality, occupational license taxes, tobacco taxes, or other similar taxes levied by a municipality pursuant to Section 11-51-90, except privilege or licence taxes levied in the nature of a sales or use tax.

“(b) The Department of Revenue shall, upon request by ordinance or resolution of the governing body of any municipality and the filing of a certified copy of the enabling ordinance or resolution with the Department of Revenue, collect all municipal privilege or license taxes imposed on the rental or furnishing of rooms, lodgings, and accommodations levied or assessed by any city or town under the provisions of a municipal ordinance duly promulgated and adopted by the governing body of the city or town. The levy shall parallel and be collected in accordance with the state levy, except for the rate of the tax, and is subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, statutes of limitations, penalties, fines, punishments, and deductions as are applicable to the state lodgings tax as levied by Sections 40-26-1 to 40-26-21, inclusive, or as otherwise provided by law, except where otherwise provided in this division, including provisions for enforcement and collection of the taxes. This subsection shall not apply to municipal gasoline or motor fuel taxes, privilege or business license taxes levied on a business for the privilege of doing business within the municipality, occupational license taxes, tobacco taxes, or other similar taxes levied by a municipality pursuant to Section 11-51-90, except privilege or license taxes levied in the nature of a lodgings tax.

“(c) This section shall apply only to those municipalities that request the Department of Revenue to collect taxes on their behalf.

“§11-51-181.

“Municipal taxes collected by the Department of Revenue shall be collected at the same time and along with the collection by the department of taxes levied and collected for the state under the provisions of Sections 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to 40-23-31, inclusive, 40-23-36, 40-23-37, except for those provisions relating to the tax rate, 40-23-38, Article 2 of Chapter 23 of Title 40, and Sections 40-26-1 to 40-26-21, inclusive, and all reports

required to be made to the Commissioner of Revenue under this division shall, on request made to the Department of Revenue, be made available for inspection by the governing body of the city or town or its designated agent at reasonable times during business hours.

“§11-51-182.

“The Department of Revenue shall prepare and distribute reports, forms, and other information as may be necessary to provide for its collection of municipal taxes under this division, and shall have all the authority and duties under this division as it has in connection with the collection of the state sales and use taxes provided for by Sections 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to 40-23-31, inclusive, 40-23-36, 40-23-37, except for those provisions relating to the tax rate, 40-23-38, and Article 2 of Chapter 23 of Title 40, and with the collection of the state tax on the rental of rooms, lodgings, and accommodations provided for by Sections 40-26-1 to 40-26-21, inclusive.

“§11-51-183.

“(a) The Commissioner of Revenue shall deposit into the State Treasury all municipal taxes collected by the department under this division; and, on a biweekly basis, the commissioner shall certify to the State Comptroller the amount of taxes collected under the provisions of this division for the approximate two-week period immediately preceding the certification and the amount to be distributed to each municipality, less collection charges deducted, which shall be paid to the treasurer or other custodian of funds of the municipality within three days after certification thereof.

“(b) The Department of Revenue shall charge each municipality its actual cost for collecting the municipal license taxes. Notwithstanding the previous sentence, however, the charge shall not exceed two percent of the amount collected for that municipality.

“(c) Within 60 days after the end of each fiscal year, the Department of Revenue, in cooperation with the office of the Examiner of Public Accounts, shall recompute its actual cost for collection of local taxes for the preceding fiscal year. Any collection over-charge shall be redistributed to the municipalities for which the department collects local taxes, on a pro rata basis of each municipality's receipts. No under-charge shall be recovered, either directly or indirectly, from any municipality.

“(d) The State Comptroller shall at least once each month issue a warrant on the funds collected under this division payable to the Department of Revenue for the amount of the charges as determined by the Commissioner of Revenue.

“§11-51-185.

“(a) Except where the Department of Revenue is already collecting taxes on the effective date of this act, any municipality requesting the Department of Revenue to collect its tax shall forward a certified copy of the enabling act, ordinance, or resolution to the department at least 30 days prior to the first day of the month on which the act, ordinance, or resolution is to take effect.

“(b) A new levy, or a levy changed by an amendment of a municipal ordinance heretofore adopted, which shall be collected under this division or a new request to collect shall not be effective nor subject to collection by the Department of Revenue until the first day of the month next following the expiration of 30 days after receipt by the department of a certified copy of the enabling ordinance or resolution with any amendments thereto.

“(c) The Department of Revenue shall not be required to make any collection of municipal privilege or license taxes levied in the nature of sales or use taxes or otherwise perform any duties as provided for in this division until a certified copy of the ordinance and amendments thereto has been on file with the Department of Revenue for at least 30 days.

“§11-51-200.

“The governing body of any municipality within the State of Alabama may provide by ordinance for the levy and assessment of sales taxes, parallel to the state levy of sales taxes as levied by Sections 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to 40-23-31, inclusive, 40-23-36, 40-23-37, except for those provisions relating to the tax rate, and 40-23-38, except where inapplicable or where otherwise provided in this article; provided, that no municipality may levy any such tax against the Alcoholic Beverage Control Board of the State of Alabama in the sale of alcoholic beverages. The phrase “except where inapplicable,” contained herein and in Sections 11-51-201, 11-51-202, and 11-51-203, shall not be construed to permit a self-administered municipality to adopt or interpret an ordinance, resolution, policy, or practice that relies on that phrase, either directly or indirectly, in order to disavow, disregard, or attempt to disavow or disregard the mandate provided in this and the following sections for conformity with the corresponding state tax levy, unless the self-administered municipality can demonstrate that the ordinance, resolution, policy, or practice will simplify collection or administration of the tax or is being made for the convenience of the taxpayer.

“§11-51-201.

“(a) All taxes levied or assessed by any municipality pursuant to the provisions of Section 11-51-200 shall be subject to all definitions,

exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions for the corresponding state tax as are provided by Sections 40-2A-7, 40-23-1, 40-23-2, 40-23-2.1, 40-23-4 to 40-23-31, inclusive, 40-23-36, 40-23-37, except for those provisions relating to the tax rate, and 40-23-38, except where inapplicable or where otherwise provided in this article.

“(b) Notwithstanding the provisions of subsection (a), the tax provided in Section 11-51-200 on any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be registered or licensed with the probate judge, which is not sold through a licensed Alabama dealer, shall be collected and fees paid in accordance with the provisions of Sections 40-23-104 and 40-23-107, respectively.

“§11-51-202.

“(a) The governing body of any municipality within the State of Alabama may provide by ordinance for the levy and assessment of an excise tax or use tax parallel to the state levy and assessment of excise or use taxes as levied by Article 2 of Chapter 23 of Title 40, except where inapplicable or where otherwise provided in this article.

“(b) The governing body of any municipality within the State of Alabama may provide by ordinance for the levy and assessment of a privilege or license tax in the nature of a lodgings tax, parallel to the state levy and assessment of the privilege or license tax as levied by Chapter 26 of Title 40, except where inapplicable or where otherwise provided by this article.

“§11-51-203.

“(a) All taxes levied or assessed by any municipality pursuant to the provisions of Section 11-51-202 shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions for the corresponding state tax as are provided by Section 40-2A-7 and Article 2 of Chapter 23 of Title 40, except where inapplicable or where otherwise provided in this article.

“(b) Notwithstanding the provisions of subsection (a), the tax provided in Section 11-51-202 on any automotive vehicle, truck trailer, trailer, semitrailer, or travel trailer required to be licensed with the probate judge, which were sold by dealers that are not

licensed in Alabama, or were sold by licensed Alabama dealers who failed to collect municipal or county sales taxes at the point of sale, shall be collected and fees paid in accordance with the provisions of Sections 40-23-104 and 40-23-107, respectively.

“(c) For making the collection of county or municipal taxes levied under the authority of this article, the tax collector shall be entitled to a fee from the recipient county or municipality in an amount equal to five percent of the first ten thousand dollars (\$10,000) of revenue collected for the recipient and three percent of all revenue collected over ten thousand dollars (\$10,000) for the recipient under this article each month. Such fee shall be for the use of the tax collector, except as otherwise provided by law. The fees allowed herein shall be deducted from the tax collection of each recipient each month and the remainder of the collections shall be remitted to each recipient as provided by law; provided, however, the fee shall be disallowed with respect to any tax collected for the county or municipality unless the collections are remitted to the appropriate county or municipal tax recipient within the time allowed by law. In all counties where the tax collector is paid on a salary instead of a fee basis, all fees allowed under the terms of this section to be paid to the tax collector shall be paid, by the tax collector, into the county treasury or to the official performing the duties of county treasurer.

“§11-51-204.

“(a) The governing body of a municipality making or enforcing a levy or assessment of taxes under the provisions of this article shall from time to time adopt by ordinance such rules and regulations for making returns and for ascertainment, assessment, collection, and administration of any taxes levied under the provisions of this article as it may deem necessary to enforce its provisions and, upon request, shall furnish any taxpayer with a copy of those rules and regulations.

“(b) Except as provided in this article, any interpretations, rules, and regulations adopted or utilized by the governing body shall not be inconsistent with any rules and regulations which may be issued or promulgated by the Department of Revenue from time to time pursuant to the Alabama Administrative Procedure Act, for the corresponding state tax.

“§11-51-205.

“(a) The governing body of a municipality levying or assessing taxes authorized by this article may provide by ordinance for the rate of the tax.

“(b) The governing body may provide in any ordinances levying or assessing the tax that the tax is levied and assessed in

whole or in part in lieu of any privilege license tax based on gross receipts in the nature of a sales or use tax which at the time of the levy is otherwise provided for by ordinance pursuant to Section 11-51-90. This subsection shall not apply to municipal gasoline or motor fuel taxes, privilege or business license taxes levied on a business for the privilege of doing business within the municipality, occupational license taxes, tobacco taxes, or other similar taxes levied by a municipality pursuant to Section 11-51-90, except privilege or license taxes levied in the nature of a sales or use tax.

“(c) In all cases where the levy and assessment made pursuant to this article is required by ordinance, any previous pledge of the proceeds collected from a privilege license tax levied by ordinance pursuant to Section 11-51-90 shall have full force and effect as to any levy or assessment made pursuant to this article.

“§11-51-207.

“(a) The governing body of a municipality may pass an ordinance or resolution requiring the Department of Revenue to administer and collect any taxes levied and assessed under the provisions of this article, or any general, special, or local law relating to the levy or administration of a municipal sales and use, rental, or lodgings tax. In all cases where the governing body of a municipality provides by ordinance or resolution for the administration and collection of any taxes levied under the provisions of this article, or any general, special, or local law relating to the levy or administration of a municipal sales and use, rental, or lodgings tax by the Department of Revenue, administration and collections shall be made under the same provisions and procedures provided for by Sections 11-51-180 to 11-51-185, inclusive.

“(b) Any municipal rental tax levy administered and collected by the Department of Revenue pursuant to Section 11-51-207(a) or Section 11-51-208 shall parallel the state levy of rental tax, except for the rate of the tax, as levied by Sections 40-12-220 to 40-12-224, inclusive, and shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules, regulations, statutes of limitation, penalties, fines, punishments, and deductions as are provided by Section 40-2A-7 and Sections 40-12-220 to 40-12-224, inclusive.”

Section 4. A new Section 11-3-11.3 is added to Chapter 3, Title 11, Code of Alabama 1975, to read as follows:

§11-3-11.3.

(a) Counties may, upon request of the county commission, engage the Department of Revenue to collect any county sales, use, rental, lodgings, tobacco, or other local taxes for which there is a

corresponding state levy. Subject to subsections (d) and (e) below, the department shall collect a county sales, use, rental, lodgings, tobacco, or other tax for which there is a corresponding state levy on behalf of the requesting county. Any county sales, use, rental, or lodgings tax levy administered and collected by the Department of Revenue pursuant to this section, whether the levy is imposed pursuant to the authority of Section 40-12-4, or any general, special, or local act of the Legislature, shall parallel the corresponding state tax levy, except for the rate of tax, and shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules, regulations, direct pay permits and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions as applicable to the corresponding state tax, except where otherwise provided in this section, including provisions for the enforcement and collection of taxes. The Department of Revenue shall make available to those counties for which it collects a sales, use, rental, or lodgings tax collected pursuant to this section the same services which are made available to municipal governments pursuant to Division 4 of Article 2 of Chapter 51 of Title 11 and Article 3 of Chapter 51 of Title 11.

(b) The Department of Revenue shall prepare and distribute those reports, forms, and other information as may be necessary to provide for its collection of any county tax it collects and, on request, shall make all reports available for inspection by the governing body of the county. In collecting a county sales, use, rental, or lodgings tax, the department shall have all the authority and duties as it has in connection with the collection of the corresponding state tax including, without limitation, the provisions of Chapters 2A, 12, 23, and 26 of Title 40.

(c) (1) The Commissioner of Revenue shall deposit into the State Treasury all county taxes collected and, on a biweekly basis, shall certify to the State Comptroller the amount of taxes collected for the approximate two-week period immediately preceding the certification and the amount, less the Department of Revenue's actual cost of collection, to be distributed to each county and which shall be paid to the treasurer or other custodian of funds of the county within three days after certification thereof.

(2) The department shall charge each county the actual cost to the department for collecting a tax. Notwithstanding the preceding sentence, however, the charge shall not exceed two percent of the amount collected for each county. At least once each month, the State Comptroller shall issue a warrant to the Department of Revenue for the collection charges due as determined by the Commissioner of Revenue. Payment shall be from funds collected under this section and shall be the actual cost of collection, not to exceed two percent of the amount collected for each county.

(3) Within 60 days after the end of each fiscal year, the department, in cooperation with the office of the Examiner of Public Accounts, shall recompute its actual costs for collection of county taxes for the preceding fiscal year. Any collection over-charge shall be redistributed to the counties for which the department collects local taxes, on a pro rata basis of each county's receipts. No under-charge shall be recovered, either directly or indirectly, from any county.

(d) Except where the department is collecting on the effective date of this act, any county which has a tax levy that will be collected by the Department of Revenue pursuant to the provisions of this section shall forward a certified copy of the enabling ordinance or resolution to the department at least 30 days prior to the first day of the month on which it is to begin collecting the tax.

(e) A new levy, or a levy changed by an amendment of a heretofore adopted levy, which will be collected under this section shall not be subject to collection by the Department of Revenue until the first day of the month next following the expiration of 30 days after receipt by the department of a certified copy of the enabling ordinance or resolution with any amendment thereto.

(f) The Department of Revenue shall from time to time issue such rules and regulations for making returns and for ascertainment, assessment, collection, and administration of taxes subject to the provisions of this section as it may deem necessary to enforce its provisions and shall furnish any municipal or county government with a copy of those rules and regulations within 15 days of final adoption. Upon request, the Department of Revenue shall furnish any taxpayer with a copy of those rules and regulations.

(g) Any self-administered county governing body, as defined in Section 40-2A-3(20), may elect, by the adoption of an ordinance or resolution, to assess interest on any tax delinquency. Any such assessment of interest shall be consistent with the provisions of Section 40-23-2.1. Any self-administered county governing body may also elect, by the adoption of an ordinance or resolution, to pay interest on any refund of tax erroneously paid. In the event that the governing body elects to assess interest on any tax delinquency, the governing body must also elect to pay interest, at the same rate charged by the county on tax delinquencies, on any refund of tax erroneously paid. Unless otherwise specified in the ordinance or resolution in which the county governing body elects to assess or pay interest determined in accordance with Section 40-1-44, the applicable interest rate to be charged by or due from the county shall be one percent per month. References in this subsection to "erroneously paid" taxes on which interest shall be due

to the taxpayer shall only mean and refer to taxes paid to the self-administered county or its agent as a result of any error, omission, or inaccurate advice by or on behalf of the self-administered county, including in connection with a prior examination of its books and records by the self-administered county or its agent.

(h) Notwithstanding subsection (g), the applicable interest rate to be assessed on any tax delinquency or paid on any refund of erroneously paid taxes with respect to all county sales, use, rental, and lodgings tax levies collected by the Department of Revenue shall be determined in accordance with Section 40-1-44.

Section 5. A new Section 11-51-208 is added to Chapter 51, Title 11, Code of Alabama 1975, to read as follows:

§11-51-208.

(a) Municipalities may, upon request of the municipal governing body, engage the Department of Revenue to collect their municipal sales, use, rental, and lodgings tax. Subject to subsections (c) and (d), the Department of Revenue shall collect the municipal sales, use, rental, and lodgings tax on behalf of the requesting municipality. The Department of Revenue shall prepare and distribute reports, forms, and other information as may be necessary to provide for the collection of any municipal tax it collects and, on request, shall make all reports available for inspection by the governing body of the municipality. In collecting a municipal sales, use, rental, or lodgings tax, the department shall have all the authority and duties as it has in connection with the collection of the corresponding state tax including, without limitation, the provisions of Chapters 2A, 12, 23, and 26 of Title 40.

(b) (1) The Commissioner of Revenue shall deposit into the State Treasury all municipal taxes collected and, on a biweekly basis, shall certify to the State Comptroller the amount of taxes collected for the approximate two-week period immediately preceding the certification and the amount, less the Department of Revenue's actual cost of collection, to be distributed to each municipality, which shall be paid to the treasurer or other custodian of funds of the municipality within three days after certification thereof.

(2) The department shall charge each municipality the actual cost to the department for collecting its tax. Notwithstanding the preceding sentence, however, the charge shall not exceed two percent of the amount collected for each municipality. At least once each month, the State Comptroller shall issue a warrant to the Department of Revenue for the collection charges due as determined by the Commissioner of Revenue. Payment shall be from

funds collected under this section and shall be the actual cost of collection, not to exceed two percent of the amount collected for each municipality.

(3) Within 60 days after the end of each fiscal year, the department, in cooperation with the office of the Examiner of Public Accounts, shall recompute its actual costs for collection of municipal taxes for the preceding fiscal year. Any collection over-charge shall be redistributed to the municipalities for which the department collects local taxes, on a pro rata basis of each municipality's receipts. No under-charge shall be recovered, either directly or indirectly, from any municipality.

(c) Except where the department is collecting on the effective date of this act, any municipality which has a tax levy that will be collected by the Department of Revenue pursuant to the provisions of this section shall forward a certified copy of the enabling act, ordinance, or resolution to the department at least 30 days prior to the first day of the first month on which the department is to begin collecting the tax.

(d) A new levy, or a levy changed by an amendment of a heretofore adopted levy, which will be collected under this section shall not be subject to collection by the Department of Revenue until the first day of the month next following the expiration of 30 days after receipt by the department of a certified copy of the enabling act, ordinance, or resolution with any amendments thereto.

(e) Subject to the provisions of this section, the Department of Revenue shall from time to time issue such rules and regulations for making returns and for ascertainment, assessment, collection, and administration of taxes subject to the provisions of this section as it may deem necessary to enforce its provisions and shall furnish any county or municipal governing body with a copy of those rules and regulations within 15 days of final adoption. Upon request, the Department of Revenue shall furnish any taxpayer with a copy of those rules and regulations.

(f) Any self-administered municipal governing body, as defined in Section 40-2A-3(20), may elect, by the adoption of an ordinance or resolution, to assess interest on any tax delinquency. Any such assessment of interest shall be consistent with the provisions of Section 40-23-2.1. Any self-administered municipal governing body may also elect, by the adoption of an ordinance or resolution, to pay interest on any refund of tax erroneously paid. In the event that the governing body elects to assess interest on any tax delinquency, the governing body must also elect to pay interest, at the same rate charged by the municipality on tax delinquencies, on any refund of tax erroneously paid. Unless otherwise

specified in the ordinance or resolution in which the municipal governing body elects to assess and pay interest determined in accordance with Section 40-1-44, the applicable interest rate to be charged by or due from the municipality shall be one percent per month. References in this subsection to "erroneously paid" taxes on which interest shall be due to the taxpayer shall only mean and refer to taxes erroneously paid to the self-administered municipality or its agent as a result of any error, omission, or inaccurate advice by or on behalf of the self-administered municipality, including in connection with a prior examination of its books and records by the self-administered municipality or its agent.

(g) Notwithstanding subsection (f), the applicable interest rate to be assessed on any tax delinquency or paid on any refund of erroneously paid taxes with respect to all municipal sales, use, rental, and lodgings tax levies collected by the Department of Revenue shall be determined in accordance with Section 40-1-44.

Section 6. A new Section 11-51-209 is added to Chapter 51, Title 11, Code of Alabama 1975, to read as follows:

§11-51-209.

The governing body of a county or municipality that levied or administered a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), on February 25, 1997, may continue to do so after the effective date of this act. However, no other governing body of a county or municipality may levy or administer a gross receipts tax in the nature of a sales tax. This section shall not apply to county or municipal gasoline or motor fuel taxes, privilege or business license taxes levied on a business for the privilege of doing business within the county or municipality, occupational license taxes, tobacco taxes, or other similar taxes levied by a county or municipality pursuant to Section 11-51-90 or local laws, except privilege or license taxes levied in the nature of a sales tax.

Section 7. A new Section 11-51-210 is added to Chapter 51, Title 11, Code of Alabama 1975, to read as follows:

§11-51-210.

(a) By December 31, 1998, the Department of Revenue shall develop and promulgate in the form of a proposed agency rule a standard multi-jurisdictional tax form and a singular jurisdictional tax form for the reporting and payment of municipal and county sales, use, rental, and lodgings taxes for those municipalities and counties for which the department serves as the collecting agent from time to time.

(b) By December 31, 1998, a committee consisting of three representatives appointed by the Alabama League of Municipalities

(ALM), who shall be municipal employees, officials, or attorneys, and three representatives appointed by the Association of County Commissions of Alabama (ACCA), who shall be county employees, officials, or attorneys, shall develop a standard multiple jurisdictional tax form and a singular jurisdictional tax form for the reporting and payment of all county and municipal sales, use, rental, and lodgings taxes for all counties and municipalities, except municipalities and counties that levy a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), that elects to be self-administered, as defined in Section 40-2A-3(20), from time to time. The committee shall also establish procedures for issuance of an amended form to take into account any new levies or changes in the tax rate or the law. Once the form and procedures are developed by the committee, they shall be distributed for comment to all counties and municipalities, the Business Council of Alabama, the Alabama Retail Association, the Alabama Chapter of the National Federation of Independent Business, and the Department of Revenue. Comments shall be returned to the committee within 45 days. Following the close of the comment period, the committee shall adopt a standard form and the procedures for issuance of an amended form. The form and procedure shall thereafter be distributed to self-administered counties and municipalities with instructions that the standard form shall be used by each self-administered county and municipality.

(c) On and after the first day of the third month following the adoption of the standard tax forms prescribed by subsection (a) and subsection (b), all municipalities and counties administered by the department, and all self-administered counties and municipalities, respectively, shall accept the applicable form without material variation. Subsequent changes to the form prescribed by subsection (b) shall be effected in compliance with the procedures developed by the committee. Any change in the tax rate shall take effect without regard to the form in use.

(d) Other than a self-administered county or municipality that levies a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), any county or municipality levying or administering any one or more sales, use, rental, or lodgings taxes shall accept, for reporting and payment of taxes due that county or municipality, bulk submissions of reports and, under regulations to be promulgated by the self-administered county or municipality affected, payments owed to such county or municipality made on behalf of a taxpayer by its properly authorized representative where such submissions are made using the appropriate form developed under this section. Any such bulk submissions or reports and payments shall include the municipality's or county's assigned

identification number for each such taxpayer and vendee for each tax paid and contain sufficiently detailed information by which each taxpayer and each vendee can be identified such that a determination can be made as to the amount and method of assessment of tax against such taxpayer and vendee for the applicable county or municipality. The acceptance by a county or municipality of such bulk submissions shall not relieve the taxpayer on whose behalf such submissions were made from liability for any sales, use, rental, or lodgings tax arising from an error or omission made by the taxpayer's representative. Any self-administered county or municipality accepting such bulk submission may require that the submission be signed by the taxpayer or its properly authorized representative.

(e) By June 30, 1998, every county and municipality levying or administering a sales, use, rental, lodgings, tobacco, gasoline, or ad valorem tax as of June 1, 1998, shall submit to the Department of Revenue a list of the taxes then levied or administered by that county or municipality and the current rates thereof. Thereafter, every county and municipality levying or administering a new sales, use, rental, lodgings, tobacco, gasoline, or ad valorem tax or amending an existing sales, use, rental, lodgings, tobacco, gasoline, or ad valorem tax levy shall submit to the department written notification of the new tax or the amendment at least 30 days prior to the effective date of the tax or amendment. However, failure to notify the department, as required by this subsection, shall not invalidate the levy of the tax. The department shall compile this information into a written publication which shall be published and issued on a monthly basis to each municipal and county governing authority, private auditing firm, as defined in Section 40-2A-3(17), and to others who have so requested the publication. This written publication shall provide a then current listing of each county and municipality levying or administering a sales, use, rental, lodgings, tobacco, gasoline, or ad valorem tax and the current rate thereof. A taxpayer shall not be relieved of liability for the proper amount of taxes owed even though the published tax rate or levy was in error. However, no penalties or interest for late payment or underpayment of taxes shall begin to accrue until the proper tax rate or levy has been on file at the department for at least 30 days, unless the taxpayer had actual knowledge of the correct tax rate or levy as of an earlier date.

(f) Each municipality and county so requesting shall receive, free of charge, a subscription to the Alabama Administrative Monthly, or any successor publication.

Section 8. A new Section 11-51-211 is added to Chapter 51, Title 11, Code of Alabama 1975, to read as follows:

§11-51-211.

(a) (1) With respect to those municipalities and counties for which the department serves as the collecting sales tax agent from time to time, when the total state sales tax for which any person is liable under Chapter 23 of Title 40 averages less than two hundred dollars (\$200) per month during the preceding calendar year, a quarterly sales tax return and remittance in lieu of monthly returns may be made to the department. If a quarterly filing election has been made by the taxpayer, then the return and remittance shall be made to the department on or before the 20th day of the month next succeeding the end of the quarter for which the tax is due. The election to file quarterly shall be made in writing no later than February 20 of each year and shall be filed with the department. Notwithstanding the above, no state-administered county or municipal sales tax return shall be due until January 20 of each year unless the total state sales tax for which any person is liable during the preceding calendar year exceeds ten dollars (\$10). The department is hereby authorized to promulgate rules and regulations to implement the provisions of this subdivision.

(2) With respect to those municipalities and counties for which the department serves as the collecting use tax agent from time to time, when (i) the total state sales tax for which any person is liable under Chapter 23 of Title 40 averages less than two hundred dollars (\$200) per month during the preceding calendar year and (ii) the total state use tax for which that person is liable under Chapter 23 of Title 40 averages less than two hundred dollars (\$200) per month during the preceding calendar year, a quarterly use tax return and remittance in lieu of monthly returns may be made to the department. If a quarterly filing election has been made by the taxpayer, then the return and remittance shall be made to the department on or before the 20th day of the month next succeeding the end of the quarter for which the tax is due. The election to file quarterly shall be made in writing no later than February 20 of each year and shall be filed with the department. Notwithstanding the above, no state-administered county or municipal use tax return shall be due until January 20 of each year unless the total state sales tax for which any person is liable during the preceding calendar year exceeds ten dollars (\$10). The department is hereby authorized to promulgate rules and regulations to implement the provisions of this subdivision.

(b) (1) With respect to self-administered counties and municipalities, as defined in Section 40-2A-3(20), when the total state sales tax for which any person is liable under Chapter 23 of Title 40 averages less than two hundred dollars (\$200) per month during the preceding calendar year, a quarterly sales tax return and remittance in lieu of monthly returns may be made to each appropriate

self-administered county or municipality. If a quarterly filing election has been made by the taxpayer, then the returns and remittance shall be made to each appropriate self-administered county or municipality on or before the 20th day of the month next succeeding the end of the quarter for which the tax is due. The election to file quarterly shall be made in writing no later than February 20 of each year and shall be filed with each appropriate self-administered county or municipality. Notwithstanding the above, no sales tax return shall be due to a self-administered county or municipality until January 20 of each year unless the total state sales tax for which any person is liable under Chapter 23 of Title 40 during the preceding calendar year exceeds ten dollars (\$10). A self-administered county or municipality is hereby authorized to promulgate rules and regulations to implement the provisions of this subdivision. Further, any self-administered county or municipality may, in its discretion, permit a taxpayer to file its sales tax returns on a basis less frequently than quarterly.

(2) With respect to self-administered counties and municipalities, when the total state sales tax for which any business or person domiciled in Alabama is liable under Chapter 23 of Title 40, averages less than two hundred dollars (\$200) per month during the preceding calendar year, a quarterly use tax return and remittance in lieu of monthly returns may be made to each appropriate self-administered county or municipality. If a quarterly filing election has been made by the taxpayer, then the return and remittance shall be made to the appropriate self-administered county or municipality on or before the 20th day of the month next succeeding the end of the quarter for which the tax is due. The election to file quarterly shall be made in writing no later than February 20 of each year and shall be filed with each appropriate self-administered county or municipality. Notwithstanding the above, no use tax return shall be due to a self-administered county or municipality until January 20 of each year unless the total state sales tax for which any person is liable under Chapter 23 of Title 40 during the preceding calendar year exceeds ten dollars (\$10). A self-administered county or municipality is hereby authorized to promulgate rules and regulations to implement the provisions of this subdivision. Further, any self-administered county or municipality may, in its discretion, permit a taxpayer to file its use tax returns on a basis less frequently than quarterly.

Section 9. Sections 40-2A-3, 40-23-2.1, 40-23-7, and 40-23-68, Code of Alabama 1975, are amended to read as follows:

“§40-2A-3.

“For the purposes of this chapter, the following terms shall have the following meanings:

“(1) **ADMINISTRATIVE LAW JUDGE.** The chief administrative law judge of the department, or any other individual acting in that capacity as appointed by the commissioner.

“(2) **ADMINISTRATIVE LAW DIVISION.** The administrative law division of the department.

“(3) **AUTHORIZED REPRESENTATIVE.** Any individual with written authority or power of attorney to represent a taxpayer before the department; provided however, that nothing herein shall be construed as entitling any such individual who is not a licensed attorney to engage in the practice of law.

“(4) **COMMISSIONER.** The commissioner of the department or his delegate.

“(5) **COMPTROLLER.** The Comptroller of the State of Alabama.

“(6) **DELEGATE.** When used with reference to the commissioner means any officer or employee of the department duly authorized by the commissioner, directly or indirectly, by one or more redelegations of authority, to perform the function described in the context.

“(7) **DEPARTMENT or DEPARTMENT OF REVENUE.** The Alabama Department of Revenue.

“(8) **GROSS RECEIPTS TAX IN THE NATURE OF A SALES TAX.** A privilege or license tax, imposed by a municipality or county, measured by gross receipts or gross proceeds of sale and which: (i) was in effect on or before February 25, 1997, or is an amendment to a tax which was in effect on that date; (ii) is levied against those selling tangible personal property at retail, those operating places of amusement or entertainment, those making street deliveries, and those leasing or renting tangible personal property; and (iii) is due and payable to a county or municipality monthly or quarterly.

“(9) **FINAL ASSESSMENT.** The final notice of value, underpayment, or nonpayment of any tax administered by the department.

“(10) **INTEREST.** That amount computed under Section 40-1-44, on any overpayment or underpayment of tax.

“(11) **INTERNAL REVENUE SERVICE.** The agency of the United States principally responsible for the determination, assessment, and collection of taxes established by Title 26 of the United States Code.

"(12) NOTICE OF APPEAL. Any written notice sufficient to identify the name of the taxpayer or other party appealing, the specific matter appealed from, the basis for such appeal, and the relief sought.

"(13) PERSON. Any individual, association, estate, trust, partnership, corporation, or other entity of any kind.

"(14) PETITION FOR REFUND. Any written request for a refund of any tax previously paid, including any amended return. Unless otherwise provided by law, such request shall include sufficient information to identify the type and amount of tax overpaid, the taxpayer, the period included, and the reasons for the refund.

"(15) PETITION FOR REVIEW. A written document filed with the department in response to a preliminary assessment in which the taxpayer sets forth reasonably specific objections to the preliminary assessment.

"(16) PRELIMINARY ASSESSMENT. The preliminary notice of value or underpayment of any tax administered by the department.

"(17) PRIVATE AUDITING OR COLLECTING FIRM. Any person in the business of collecting, through contract or otherwise, local sales, use, rental, lodgings or other taxes or license fees for any county or municipality, or auditing any taxpayer, through the examination of books and records, for any county or municipality. The term shall not include any of the following:

"a. The Department of Revenue.

"b. A county or municipality that has entered into a contract or other arrangement to collect local sales, use, rental, lodgings or other taxes or license fees on behalf of another county or municipality, or to audit a taxpayer, through the examination of books and records, on behalf of another county or municipality.

"c. A person or firm whose sole function and purpose on behalf of a municipality or group of municipalities is to collect delinquent insurance premium license fees levied by that municipality or group of municipalities, and who has no authority to determine the amount of license fee, interest, court cost, or penalty owed to the municipality or group of municipalities.

"(18) RETURN. Any report, document, or other statement required to be filed with the department for the purpose of paying, reporting, or determining the proper amount of value or tax due.

"(19) SECRETARY. The secretary of the department.

“(20) SELF-ADMINISTERED COUNTY OR MUNICIPALITY.

A county or municipality that administers its own sales and use taxes or other local municipal or county taxes levied or authorized to be levied by a general or local act, or contracts out all or part of that function to a private auditing or collecting firm. The term does not include any of the following:

“a. A county or municipality that allows the department to administer a sales, use, rental, or lodgings tax which is levied by or on behalf of such a county or municipality.

“b. A municipality or county that levies a gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8). A county or municipality that both self administers a sales, use, rental, or lodgings tax and allows the department to administer a sales, use, rental, or lodgings tax that is levied by or on behalf of the county or municipality is only a self-administered county or municipality with respect to those sales, use, rental, or lodgings taxes that the county or municipality administers itself or for such taxes that it contracts for the collection.

“(21) TAX. Any amount, including applicable penalty and interest, levied or assessed against a taxpayer and which the department or any county, municipality, or their designees are required or authorized to administer under the provisions of Alabama law.

“(22) TAXPAYER. Any person subject to or liable for any state or local tax; any person required to file a return with respect to, or to pay, or withhold and remit any state or local tax or to report any information or value to the department, a county, municipality, or its designee; or any person required to obtain or holding any interest in any license, permit, or certificate of title issued by the department, a county, municipality, or its designee, or any person that may be affected by any act or refusal to act by the department, a county, municipality, or its designee, or to keep any records required by this chapter.

“§40-23-2.1.

“(a) If a sales tax, gross receipts tax in the nature of a sales tax, as defined in Section 40-2A-3(8), use tax, or rental tax levied by or on behalf of an Alabama municipality is paid under a requirement of law, the property which is the subject of such tax, when imported for use, storage, or consumption into another Alabama municipality, is not subject to the sales tax, use tax, or rental tax regardless of rate, which is required by the second municipality under any municipal ordinance or any act of the legislature. The collecting agency shall require such proof of payment of tax to another municipality as is deemed necessary and proper.

“(b) If a sales tax, gross receipts tax in the nature of a sales tax, use tax, or rental tax levied by or on behalf of an Alabama county is paid under a requirement of law, the property which is the subject of such tax, when imported for use, storage, or consumption into another Alabama county, is not subject to the sales, use, or rental tax, regardless of rate, which is required by the second county under any county ordinance, resolution, or any act of the legislature. The collecting agency shall require such proof of payment of the tax to another Alabama county as is deemed necessary and proper.

“(c) This section applies to all municipalities in Alabama levying or administering a sales tax, gross receipts tax in the nature of a sales tax, use tax, or rental tax and all counties in Alabama levying or administering a sales tax, gross receipts tax in the nature of a sales tax, use tax, or rental tax. It is the intent of this section that only one municipal sales, use, rental, or gross receipts tax in the nature of a sales tax, and only one county sales, use, rental, or gross receipts tax in the nature of a sales tax be collected or paid on the same sale or rental transaction. To that end, if a sales tax, gross receipts tax in the nature of a sales tax, use tax or rental tax owed to one municipality or county, hereinafter referred to as the “proper locality,” is erroneously paid to a different municipality or county in good faith, based on a reasonable interpretation of the enabling ordinance, resolution, or act levying or authorizing the tax, but not under a requirement of law, the municipality or county receiving the erroneous payment shall refund the overpaid tax, without interest, to the taxpayer within 60 days of the taxpayer’s compliance with the applicable refund procedures. In order to avoid the accrual of interest and any otherwise applicable penalties on the tax due the proper locality, the taxpayer making the erroneous payment must comply with the applicable refund procedures within 60 days of receiving notice from a county, municipality, or its agent of the erroneous payment. If the taxpayer complies with the refund procedure in a timely manner, the proper locality shall not assess or attempt to assess the tax, or any related interest or otherwise applicable penalty thereon, and no interest or penalty thereon shall accrue, until the date of receipt of the overpayment by the taxpayer or the taxpayer’s agent. However, the taxpayer’s failure to comply with the refund procedures within the requisite 60-day period shall cause interest and any applicable penalties to accrue on the tax to which the proper locality is entitled from the sixty-first day and until such time as the tax is paid. The taxpayer shall remit the disputed tax to the proper localities within 15 days after receipt. Provided, that if the applicable rate of sales tax or gross receipts tax in the nature of a sales tax imposed by the municipality or county receiving an erroneous payment of

the sales or gross receipts tax exceeds the rate of sales or gross receipts tax imposed by the proper locality under a requirement of law, the municipality or county that erroneously received the tax shall not be obligated to refund the difference unless the taxpayer properly files the applicable petition for refund.

“§40-23-7.

“(a) The taxes levied under the provisions of this division, except as otherwise provided in subsection (d), shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues.

“(b) Except as otherwise provided in subsection (d) on or before the twentieth day of each month, every person on whom the taxes levied by this division are imposed shall report to the department, on a form prescribed by the department, a true and correct statement showing such information as the department may require, and shall pay to the department the amount of taxes shown to be due.

“(c) Any taxpayer liable for taxes under the provisions of this division whose average monthly state sales tax liability was one thousand dollars (\$1,000) or greater during the preceding calendar year shall make estimated payments to the department on or before the twentieth day of the month in which the liability occurs as follows:

“(1) The amount of the first estimated payment shall be $66 \frac{2}{3}$ percent of the taxpayer's actual tax liability for the month of October 1983; thereafter the amounts of the payment shall be the lesser of $66 \frac{2}{3}$ percent of the taxpayer's actual tax liability for the same calendar month of the preceding year or $66 \frac{2}{3}$ percent of the current month's estimated liability.

“(2) Any outstanding credit or deficit arising from the taxpayer's overpayment or underpayment of his final liability shall be applied to either increase or reduce, as the case may be, that month's final tax liability which shall be reported and paid not later than the twentieth day of the month next succeeding the month in which the tax accrues.

“(3) The provisions of this subsection shall not apply to the provisions of Sections 11-51-180, 11-51-200, 40-12-4, nor to any municipal or county taxes levied by past or future special or local acts of the Legislature.

“(d) When the total state sales tax for which any person is liable under this division averages less than two hundred dollars (\$200) per month during the preceding calendar year, a quarterly

return and remittance in lieu of the monthly returns may be made, by election of the taxpayer to the department, on or before the twentieth day of the month next succeeding the end of the quarter for which the tax is due under any rules and regulations as may be prescribed. The election to file quarterly shall be made in writing no later than February 20 of each year and shall be filed with the department. Notwithstanding the above, no state sales tax return shall be due until January 20 of each year unless the total state sales tax for which any person is liable under this division during the preceding calendar year exceeds ten dollars (\$10).

“(e) The department, for good cause, may extend the time for making any state or state-administered return required under the provisions of this division, but the time for filing any such return shall not be extended for a period greater than 30 days from the date such return is due to be made.

“§40-23-68.

“(a) Except as otherwise provided in subsection (f), the tax imposed by this article shall be due and payable to the department monthly on or before the twentieth day of the month next succeeding each month during which the storage, use or other consumption of tangible personal property became taxable hereunder.

“(b) Every seller or person engaged in making retail sales of tangible personal property for storage, use or other consumption in this state, who alternatively:

“(1) Maintains, occupies, or uses, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business;

“(2) Qualifies to do business or registers with the state to collect the tax levied by this chapter;

“(3) Employs or retains under contract any representative, agent, salesman, canvasser, solicitor or installer operating in this state under the authority of the person or its subsidiary for the purpose of selling, delivering, or the taking of orders for the sale of tangible personal property or any services taxable under this chapter or otherwise solicits and receives purchases or orders by any agent or salesman;

“(4) Solicits, pursuant to a contract with a broadcaster or publisher located in this state, orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdiction;

“(5) Solicits orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities;

“(6) Has, under a franchise or licensing arrangement or contract, a franchisee or licensee operating under its trade name;

“(7) Solicits, pursuant to a contract with a cable television operator located in this state, orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state;

“(8) Solicits orders for tangible personal property by means of a telecommunication or television shopping system which is intended by the person to be broadcast by cable television or other means of broadcasting, to consumers located in this state;

“(9) Maintains any other contact with this state that would allow this state to require the seller to collect and remit the tax due under the provisions of the constitution and laws of the United States; or

“(10) Distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, within the State of Alabama, shall be subject to all the provisions of this chapter and shall, except as otherwise provided in subsection (f), on or before the twentieth day of the month following the close of each month file with the department a return for the preceding month in such form as may be prescribed by the department showing the total sales price of the tangible personal property sold by such seller, the storage, use, or consumption of which became subject to the tax imposed by this article during the preceding month and such other information as the department may deem necessary for the proper administration of this article.

“(c) The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. Returns shall be signed by the seller or his duly authorized agent but need not be verified by oath.

“(d) Except as otherwise provided in subsection (f), every person purchasing tangible personal property, the storage, use, or other consumption of which is subject to the tax imposed by this article, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect the tax, shall on or before the twentieth day of the month following the close of each month file with the department a return for the preceding month in such form as may be prescribed by the department showing the total sales price of the tangible personal property purchased by such person, the storage, use, or

other consumption of which became subject to the tax imposed by this article during the preceding month and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the tax, and such other information as the department may deem necessary for the proper administration of this article. The return shall be accompanied by a remittance of the amount of tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return. Returns shall be signed by the person liable for the tax or his duly authorized agent, but need not be verified by oath.

“(e) For the purpose of the proper administration of this article and to prevent evasion of the tax and the duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this state is sold for storage, use, or other consumption in this state unless the person selling such property has taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale, and it shall be further presumed that tangible personal property shipped to this state by the purchaser thereof was purchased from a retailer on and after March 1, 1939, for storage, use, or other consumption in this state. Except as otherwise provided in subsection (f), any seller making cash and credit sales for storage, use, or other consumption in Alabama may report such cash sales and shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the tax to be paid until collections of such credit sales shall have been made.

“(f) When the total state use tax for which any person is liable under this division averages less than two hundred dollars (\$200) per month during the preceding calendar year, a quarterly return and remittance in lieu of the monthly returns may be made, by election of the taxpayer to the department, on or before the twentieth day of the month next succeeding the end of the quarter for which the tax is due under such rules and regulations as may be prescribed by the department. The election to file quarterly shall be made in writing no later than February 20 of each year and shall be filed with the department. Notwithstanding the above, no state use tax return shall be due until January 20 of each year unless the total state use tax for which any person is liable under this division during the preceding calendar year exceeds ten dollars (\$10).”

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. Subject to the limitations and exceptions provided in Section 11-3-11.2, Code of Alabama 1975, as amended by this act, any specific provisions of a local or general law in direct conflict with a specific provision of this act is hereby repealed. The repeal of such portion, however, shall not affect the remaining provisions of the local or general law not in direct conflict with a specific provision of this act.

Section 12. Except as provided in the following two sentences, this act shall become effective July 1, 1998, following its passage and approval by the Governor, or upon its otherwise becoming a law. New Section 11-51-210 shall become effective immediately upon passage of this act and approval by the Governor, or upon its otherwise becoming a law. The provisions of this act relating, directly or indirectly, to the time limits for entering assessments of local taxes and filing petitions for refund or issuing refunds of local taxes shall neither cause the re-opening of any tax period, that would otherwise be closed on July 1, 1998, by virtue of a conflicting law, ordinance, resolution, policy, or practice, nor accelerate the closing of any tax period, that would otherwise be open on July 1, 1998, by virtue of a conflicting law, ordinance, resolution, policy, or practice.

Approved March 18, 1998

Time: 9:56 A.M.

Act No. 98-193

S. 16 – Senator Freeman

AN ACT

Providing for a bonus of \$12,500 to state employees retiring after July 1, 1998, and before October 2, 1998.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Each person employed by the State of Alabama, and all legislative personnel, officers or employees, including, but not limited to, Legislative Reference Service personnel, whether subject to the State Merit System or not, who has satisfied the age and service requirements for retirement with a benefit, and who retires after July 1, 1998, and before October 2, 1998, shall be entitled to receive a bonus of twelve thousand five hundred dollars (\$12,500) to be paid in either: (1) the fiscal year ending September 30, 1998, (2) the fiscal year ending September 30, 1999 as a lump sum payment prior to January 31, 1999, or (3) the fiscal year ending September 30, 1999 in equal quarterly payments prior to September 30, 1999. The selection of the above payment option for each employee shall be at the discretion of the employer.

(b) The above bonus shall be in addition to all salaries, wages, and other benefits as may be provided by law or State Personnel Board rules, and may not be used in computing retirement or other benefits.

(c) An employee choosing to participate in this program will not be eligible to participate in any other early retirement incentive program offered by the State of Alabama in 1998.

(d) The amounts necessary to implement the provisions of this act shall be paid from those funds that the salaries of the state officials and employees are paid.

Section 2. If legislation providing an eight percent or greater pay raise for state employees beginning with the 1998-99 fiscal year is not signed into law by June 1, 1998, this act shall be null and void.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming law.

Approved March 18, 1998

Time: 3:15 P.M.

Act No. 98-194

S. 18 – Senator Freeman

AN ACT

To provide that certain members of the state retirement systems shall have a one-time option of participating in an early retirement incentive program and receiving payment for a certain amount of accrued or unused sick leave at retirement.

Be It Enacted by the Legislature of Alabama:

Section 1. The intent of this act is to grant eligible state employees a one-time option of participating in an early retirement incentive program and receiving a payment equal to his or her accrued and unused sick leave upon retirement.

Section 2. (a) Notwithstanding Sections 36-26-36 and 36-26-36.1, Code of Alabama 1975, when an active and contributing member of the Employees' Retirement System in state service and an active and contributing state employee who is a member of the Teachers' Retirement System has satisfied the age and service requirements for retirement with a benefit and retires after July 1, 1998, and before October 2, 1998, the member shall have an option to receive payment for all of his or her accrued and unused sick leave through 150 days not to exceed a maximum of 150 days. Payment under this option shall be made in either: (1) the fiscal

year ending September 30, 1998, (2) the fiscal year ending September 30, 1999 as a lump sum payment prior to January 31, 1999, (3) the fiscal year ending September 30, 1999 in equal quarterly payments prior to September 30, 1999. The selection of the above payment option for each employee shall be at the discretion of the employer. This act shall not apply to an employee of an employer participating in the Employees' Retirement System under Section 36-27-6, Code of Alabama 1975.

(b) An employee choosing to participate in this program will not be eligible to participate in any other early retirement incentive program offered by the State of Alabama in 1998.

(c) The incentive provided in this section shall be in addition to all salaries, wages, and other benefits provided by law or State Personnel Board rules and may not be used in computing retirement or other benefits.

(d) The payments provided in this act shall be paid from the funds from which state employees salaries are paid.

Section 3. If legislation providing an eight percent or greater pay raise for state employees beginning with the 1998-99 fiscal year does not become a law by June 1, 1998, the retirement incentive payment for certain sick leave provided by this act shall be null and void.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

Approved March 18, 1998

Time: 3:16 P.M.

Act No. 98-195

S. 5 – Senator Freeman

AN ACT

To authorize the incorporation of the Alabama Revolving Loan Fund Authority; to provide for its governance and to confer upon it certain powers; to grant to the Authority the power to issue not exceeding \$12,000,000 principal amount of bonds for the purpose of making grants of revolving loan funds to the several regional planning and development commissions; to amend Section 40-21-123, Code of Alabama 1975, to appropriate to the Authority and pledge for payment of the principal of and interest on the bonds proceeds from the levy of the privilege or license tax on cellular radio telecommunication service to the extent necessary to pay the principal and interest at their respective maturities; to provide for the details of the bonds and for the terms of sale thereof; to provide that the bonds shall be limited obligations of the Authority payable solely out of the funds so appropriated and pledged and will not create a debt or obligation of the

State; to provide that the bonds and the income therefrom shall be exempt from taxation in this State and the bonds may be used to secure deposits of funds of this State and its political subdivisions, instrumentalities and agencies, and for investment of fiduciary funds; to provide that the Department of Economic and Community Affairs shall perform administrative and recordkeeping functions on behalf of the Authority; to provide for the dissolution of the Authority and to provide for an effective date, subject to the ratification of the Constitutional Amendment proposed in Senate Bill 611 of the 1997 Regular Legislative Session.

Be It Enacted by the Legislature of Alabama:

Section 1. As used in this act, the following words and phrases shall have the following meanings:

(1) **AUTHORITY.** The public corporation organized pursuant to the provisions of this act.

(2) **BOARD OF DIRECTORS.** The board of directors of the Alabama Revolving Loan Fund Authority.

(3) **BONDS.** The bonds issued under the provisions of this act.

(4) **GRANTEE.** The several existing regional planning and development commissions, as provided for in Sections 11-85-50 to 11-85-73, inclusive, Code of Alabama 1975.

(5) **REVOLVING LOAN FUNDS.** The monies provided by the sale of the bonds pursuant to this act. These monies may be combined with or used to facilitate access to either federal funds or foundation grants or loans, or to leverage private sector financing that may be available for initial or seed capital, long or short term fixed asset or equipment loans or working capital for local economic development projects for improving, developing, or financing new, existing, or expanding business or industry, to preserve or create employment pursuant to Section 41-23-50, Code of Alabama 1975.

(6) **STATE.** The State of Alabama.

Section 2. The Governor, or his or her designee, the Finance Director, the Lieutenant Governor, or his or her designee, the Speaker of the House of Representatives, or his or her designee, the Chairman of the Regional Revolving Loan Policy Committee, and the President of the Alabama Association of Regional Councils, or his or her designee shall become a public corporation with the powers provided for in this act by proceeding according to the provisions of Section 3 of this act.

Section 3. (a) To become the public corporation authorized by this act, the Governor, the Finance Director, and the President of the Alabama Association of Regional Councils shall present to the Secretary of State of Alabama an application signed by the applicants listed in Section 2 which shall set forth all of the following:

(1) The name, official designation, and official residence of each of the applicants, together with a certified copy of the commission evidencing each applicant's right to office.

(2) The date on which each applicant was inducted into office and the term of office of each applicant.

(3) The name of the proposed public corporation, which shall be the Alabama Revolving Loan Fund Authority.

(4) The location of the principal office of the proposed corporation.

(b) The applicants may also include in the said application any other matters which are not inconsistent with this act or with any of the other laws of the state.

(c) The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of this state to take acknowledgements to deeds.

(d) The Secretary of State shall examine the application and, if he or she finds that it substantially complies with the requirements of this section, he or she shall receive and file it and record it in an appropriate book of records in his or her office.

Section 4. (a) When the application has been made, filed, and recorded as provided in this act, the applicants shall constitute a corporation under the name proposed in the application. The Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this act, under the great seal of the state, and shall record the certificate with the application.

(b) There shall be no fees paid to the Secretary of State for any service rendered or work performed in connection with the Authority, its incorporation, dissolution or records.

Section 5. (a) The applicants named in the application and their respective successors in office shall constitute the members of the Authority. The Governor, or his or her designee, shall be the president of the Authority; the Finance Director shall be the vice-president thereof; and the President of the Alabama Association of Regional Councils, or his or her designee shall be the secretary thereof. The State Treasurer shall be the treasurer of the Authority, shall act as custodian of its funds until the allocations are disbursed to the several regional planning commissions pursuant to Section 10, and shall pay the principal and the interest on the bonds of the Authority out of the funds provided for in this act. The members of the Authority shall constitute all the

members of the board of directors of the Authority, and any four members of the board of directors shall constitute a quorum for the transaction of business. Should any person hold the position named in this act cease to hold such office by reasons of death, resignation, expiration of term of office, or for any other reason, then his or her successor in office shall take his or her place as an officer and member of the board of directors of the Authority. No officer or member of the board of directors shall draw any salary in addition to that now authorized by law for any service he or she may render or for any duty he or she may perform in connection with the Authority.

(b) All proceedings had and done by the board of directors shall be reduced to writing by the secretary of the Authority, shall be signed by at least four members of the Authority present at the proceedings, and shall be recorded in a substantially bound book and filed in the office of the secretary of state. Copies of such proceedings, when certified by the secretary of the Authority, under the seal of the Authority, shall be received in all courts as prima facie evidence of the matters and things therein certified.

Section 6. The Authority shall have the following powers:

(1) To have succession by its corporate name until dissolved as provided in this article.

(2) To institute and defend legal proceedings in any court of competent jurisdiction and proper venue; provided, that the Authority may not be sued in any trial court other than the courts of the county in which is located the principal office of the Authority; provided further, that the officers, directors, and agents of the Authority may not be sued for action on behalf of the Authority in any trial court other than the courts of the county in which is located the principal office of the Authority.

(3) To have and to use a corporate seal and to alter the seal at pleasure.

(4) To establish a fiscal year.

(5) To anticipate by the issuance of its bonds the receipt of the revenues appropriated and pledged in this act.

(6) To pledge the proceeds of the appropriations and pledges provided for in this article as security for the payment of the principal of and interest on its bonds.

(7) To contract with the Alabama Department of Economic and Community Affairs to perform the administrative and recordkeeping functions necessary for the successful implementation of this act,

which shall include but shall not be limited to the function delineated in Section 10.

(8) To appoint and employ such attorneys and agents as the Authority may require to fulfill the corporate purposes of the Authority and in exercising the foregoing powers.

Section 7. The Authority is authorized to sell and issue its bonds in the aggregate principal amount of twelve million dollars (\$12,000,000) for the purpose of making grants to the twelve regional planning and development commissions, which shall be utilized by the grantees as revolving loan funds.

Section 8. The Bonds of the Authority shall be signed by its president and attested by its secretary and the seal of the Authority shall be affixed thereto or a facsimile of such seal shall be printed or otherwise reproduced thereon; provided, that a facsimile of the signature of one, but not both, of said officers may be printed or otherwise reproduced on any such Bonds in lieu of being manually subscribed thereon and a facsimile of the signatures of both of the said officers may be printed or otherwise reproduced on such Bonds in lieu of being manually affixed thereof if the Authority, in its proceedings with respect to issuance of the Bonds, provides for manual authentication of such Bonds. The State Treasurer shall be registrar, transfer agent, and paying agent for the bonds. The State Treasurer may designate named individuals who are employees of the state and who are assigned to the finance department or the State Treasurer's office to authenticate the Bonds. Any Bonds of the Authority may be executed and delivered by it any time and from time to time and shall be in such form or forms and such denomination or denominations and of such tenor and maturity or maturities, shall bear such rate or rates of interest, which may be variable rates, shall be payable at such times and evidenced in such manner, and may contain such other provisions not inconsistent herewith, all as may be provided by the resolution of the board of directors of the Authority under which such Bonds are authorized to be issued; provided, that no bond of the Authority shall have a specified maturity date later than twenty years after its date. Any bond of the Authority may be made subject to redemption at the option of the Authority at such times and after such notice and on such conditions and at such redemption price or prices as may be provided in the resolution under which it is authorized to be issued; provided, that those Bonds of the Authority having specified maturity dates more than 10 years after their date shall be made subject to redemption at the option of the Authority not later than the end of the tenth year after their date, and on any interest payment date thereafter, under such terms and conditions and at such redemption price or prices as may be provided in the resolution under which such Bonds are authorized to be issued. Bonds of the

Authority may be sold at such price or prices and at such time or times as the board of directors of the Authority may consider advantageous, either at public or private sale and by negotiation or by competitive bid. Bonds of the Authority sold by competitive bid must be sold, whether on sealed bids or at public auction, to the bidder whose bid reflects the lowest true interest cost to the Authority for the Bonds being sold, computed from their date to their respective maturities; provided, that if no bid acceptable to the Authority is received, it may reject all bids. The Authority may fix the terms and conditions under which each sale of Bonds may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this act. Subject to the provisions and limitations contained in this act, the Authority may from time to time sell and issue refunding bonds for the purpose of refunding any matured or unmatured Bonds of the Authority then outstanding. Such refunding Bonds shall be subrogated and entitled to all priorities, rights and pledges to which the Bonds refunded thereby were entitled. Provided, however, that no refunding bonds shall be issued unless the present value of all debt service on the refunding bonds, computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses, shall not be greater than 95% of the present value of all debt service on the bonds to be refunded, computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds, determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities, considering mandatory redemption as a scheduled maturity, provided at the time of their issuance. Provided further, that the average maturity of the refunding bonds, as measured from the date of issuance of such refunding bonds, shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal of each maturity by the number of years, including any fractional part of a year, intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined. The Authority may pay out of the proceeds of the sale of its Bonds attorneys' fees and the expenses of issuance which the board of directors may deem necessary and advantageous in connection with the issuance of such Bonds. Bonds issued by the Authority shall not be general obligations of the Authority but shall be payable solely out of the funds appropriated and pledged thereof in Section 9. As security for the payment of the principal of and interest on the Bonds issued by it, the Authority is hereby authorized and empowered to pledge

for payment of such principal and interest the funds that are appropriated and pledged in Section 9 for payment of such principal and interest. All such pledges made by the Authority shall take precedence in the order of the adoption of the resolutions containing such pledges; provided, that each pledge for the benefit of refunding bonds shall have the same priority as the pledge for the benefit of the bonds refunded thereby. All contracts made and all bonds issued by the Authority pursuant to the provisions of this act shall be solely and exclusively obligations of the Authority and shall not constitute or create an obligation or debt of the State of Alabama. All Bonds issued by the Authority and the income therefrom shall be exempt from all taxation in the state. Any Bonds issued by the Authority may be used by the holder thereof as security for any funds belonging to the state, or to any political subdivision, instrumentality, or agency of the state, in any instance where security for such deposits may be required by law. Unless otherwise directed by the court having jurisdiction thereof, or the document that is the source of authority, a trustee, executor, administrator, guardian, or one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust funds in Bonds of the Authority. Neither a public hearing nor consent of the department of finance of the state or any other department or agency shall be a prerequisite to the issuance of the Bonds by the Authority. The Bonds issued under the provisions of this act shall be legal investments for funds of the Teachers' Retirement System of Alabama, the Employees' Retirement System of Alabama, and the State Insurance Fund.

Section 9. For the purpose of providing funds to enable the Authority to pay at their respective maturities the principal of and interest on any Bonds issued by it under the provisions of this act and to accomplish the objects of this act, there is hereby irrevocably pledged to these purposes, and hereby appropriated the amount that may be necessary for those purposes from the receipts from the privilege or license tax on providers of cellular radio telecommunication services levied in Section 40-21-121, Code of Alabama 1975.

Section 10. Section 40-21-123, Code of Alabama 1975, is amended to read as follows:

“§40-21-123.

“The tax herein levied shall be collected and administered in accordance with the procedure set forth in Section 40-21-85, and for those purposes the provisions of Section 40-21-85, are hereby incorporated into this section by reference. All tax revenue and other funds received or collected under subsection (a) of Section

40-21-121 shall be deposited into the State Treasury and used for the following purposes:

“(1) So much thereof as necessary is hereby appropriated to be used by the State Treasurer to pay at their respective maturities the principal and interest due in the fiscal year on the outstanding bonds issued by the Alabama Revolving Loan Fund Authority.

“(2) The residual balance thereof remaining shall be credited to the State General Fund.”

Section 11. (a) The Alabama Department of Economic and Community Affairs (ADECA) Planning and Economic Development Division shall perform the centralized administrative and record-keeping functions for the Authority. ADECA shall ensure that grantees utilize their allocations of grant monies efficiently and effectively as revolving loan funds, pursuant to Sections 41-23-50 and 41-23-51, Code of Alabama 1975. The grantees shall provide to ADECA all information regarding the disbursements of revolving loan funds, terms and conditions of the revolving loans that are approved, jobs created and other information deemed necessary by the Authority to assess the respective revolving loan programs of the grantees. ADECA shall cause programmatic audits to be conducted on the utilization of revolving loan funds by grantees upon the request of the Authority. ADECA shall recommend to the Regional Revolving Loan Policy Committee, defined in Section 41-23-51, Code of Alabama 1975, a formula relative to the indirect cost of the Planning and Economic Development Division, to provide for the payment of the administrative and oversight requirements of ADECA pursuant hereto. The several regions shall contract with and pay ADECA an amount, at such times as necessary established by the formula agreed upon.

(b) ADECA shall not deduct from the net bond proceeds any administrative costs, service charges, salaries or fees for the performance of these functions on behalf of the Authority.

(c) ADECA shall make grants of equal amounts to the twelve regional planning and development commissions, grantees, from the net proceeds derived from the sale of the Authority's bonds within 30 days following the sale of the bonds.

Section 12. Out of the revenues appropriated and pledged in Section 9, the State Treasurer is hereby authorized and directed to pay the principal of and the interest on the Bonds issued by the Authority under the provisions of this act, as the principal and interest shall respectively mature, and the State Treasurer is further authorized and directed to set up and maintain appropriate records pertaining thereto.

Section 13. At any time when no Authority Bonds or refunding Bonds are outstanding, the Authority may be dissolved upon the filing with the Secretary of State of an application for dissolution, which shall be subscribed by each of the directors of the Authority and sworn to by each director before an officer authorized to take acknowledgments to deeds. Upon the filing of the application for dissolution, the Authority shall cease to exist. The Secretary of State shall file and record the application for dissolution in an appropriate book of record in his or her office, and shall make and issue, under the great seal of the state, a certificate that the Authority is dissolved, and shall record the certificate with the application for dissolution. Title to all property held in the name of the Authority shall be vested in the state upon dissolution of the Authority.

Section 14. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 15. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law; provided, however, that notwithstanding the foregoing, this act shall not become operative until such time as the Constitutional Amendment proposed by Act 97-356, 1997 Regular Session, is ratified.

Approved March 18, 1998

Time: 6:30 P.M.

Act No. 98-196

H.J.R. 129 – Rep. Crigler

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WILLIAM B. WILLIAMS OF MOBILE, ALABAMA.

WHEREAS, it is with the most profound sorrow and deep sense of loss that word has been received of the death of William B. (Bill) Williams of Mobile, Alabama, on January 26, 1998; and

WHEREAS, a native of Greenville, Alabama, and resident of Mobile County for 57 years, Mr. Williams was faithful and deeply committed to Union Baptist Church in Grand Bay, Alabama, and, throughout his lifetime, exhibited by word and deed his consuming interest in the welfare of others; and

WHEREAS, he also exemplified the highest standards of professionalism as a salesman with Motor Parts and Supply for 35

years, and his countless friends and relatives have been inspired, encouraged, and touched by the care and concern shown by him, and they will carry with them throughout their lives the experience they have gained from his guidance; and

WHEREAS, left to cherish the memories of William B. Williams are his wife, Elouise Hatchett Williams; son, David Williams; daughter, Martha Turner; brother, Pat Williams; sister, Mildred Hall; and ten grandchildren and six great grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That deepest sympathy is hereby extended to Mrs. Williams, for whom a copy of this resolution of sincere condolence shall be provided.

Approved March 20, 1998

Time: 8:00 A.M.

Act No. 98-197

H.J.R. 131 – Rep. Sanderford

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF WILLIAM A. GRANT, JR., OF JASPER, ALABAMA.

WHEREAS, it is with great sorrow that the Legislature of Alabama records the death of William A. "Bill Grant, Jr., of Jasper, Alabama, on November 13, 1997; and

WHEREAS, a prominent and highly respected member of the Jasper-Walker County community Bill Grant was a highly decorated veteran of World War II, a coal mining executive, co-founder of Jasper's first radio station, author and civic leader who contributed extensively to his community through involvement in and support of a number of civic organizations and other activities of great benefit to his fellow citizens and his fellow man; and

WHEREAS, born in Richmond, Virginia, on November 7, 1918, he earned his Bachelor's degree from the University of Richmond, where he served on the Board of Associates, and earned his Navy Wings of Gold at the Corpus Christi Naval Air Station; and

WHEREAS, Mr. Grant was a highly decorated veteran of World War II, receiving the Navy Cross, the Distinguished Flying Cross, and an Air Medal with Gold Star for service as a naval fighter pilot aboard the aircraft carrier Wasp in Guam, an experience he would later recount in his book, "The Sting of the Wasp," published the last year of his life; and

WHEREAS, Mr. Grant, who served as secretary-treasurer of the Bankhead Mining Company, Inc., Cobb Coal Company, and Jefferson Coal Company for more than 20 years, helped establish pioneer radio station WWWB in Jasper in 1946, and, following his retirement, was active in the establishment of Sis Sound, Inc., which owned and operated several radio stations in North Alabama; and

WHEREAS, in civic endeavors, Mr. Grant served as secretary and president of both the Jasper Jaycees and the Jasper Rotary Club, and was one of only two local men ever to be elected Rotary International District Governor for the Northern District of Alabama; he also served as World Community Service Chairman of Rotary and, shortly before his death, was honored for his invaluable contributions in the development of a school and other projects with the Rotary Club of Casa de Campo in the Dominican Republic; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as his death is mourned, thanks are given for the life and service of William A. "Bill" Grant, Jr., of Jasper, Alabama, and, by copy of this resolution, deepest heartfelt sympathy is hereby extended to his beloved wife, Mildred Barton Grant; two sons, William Alexander "Alec" Grant, III, and Walter Bankhead Grant; stepsons, Rodney Steve Barton and Reverend Ronnie Gary Barton; sister, Louise Grant Smith; eight grandchildren; and to other close family members and friends, whose sorrow we sincerely share.

Approved March 20, 1998

Time: 8:01 A.M.

Act No. 98-198

H.J.R. 132 – Reps. Hamilton and Starkey

HOUSE JOINT RESOLUTION

COMMENDING ASHLEY PEEBLES AS RECIPIENT OF A 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARD.

WHEREAS, Ashley Peebles, an esteemed resident of Lexington, Alabama, and a student at Lexington School, has achieved national recognition for exemplary volunteer service by receiving a 1998 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young

volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Peebles earned this award by giving generously of her time and energy to collecting toys for needy children and distributing them for Christmas; and

WHEREAS, the success of the State of Alabama, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ashley Peebles who use their considerable talents and resources to serve others; and

WHEREAS, Ms. Peebles is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Ashley Peebles is indeed commended as a recipient of a Prudential Spirit of Community Award, and for her outstanding record of volunteer service, peer leadership, and community spirit, and, by copy of this resolution, is extended best wishes for continued success.

Approved March 20, 1998

Time: 8:02 A.M.

Act No. 98-199

H.J.R. 139 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. ALBERT CARVER OF ELBERTA, ALABAMA, ON THE OCCASION OF THEIR 55TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the 55th Wedding Anniversary of Mr. and Mrs. Albert Carver of Elberta, Alabama, on May 25, 1998; and

WHEREAS, Albert and Lois Cooper Carver were joined in Holy Matrimony on May 25, 1943, in Lucedale, Mississippi, and, through the ensuing years, have shared the accomplishments, happiness, and sorrows encountered in a life of mutual trust and devotion; and

WHEREAS, they have distinguished themselves as valued and respected members of their community and, to all who have witnessed

their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, indeed, this happy couple continues to enjoy life to the fullest in a partnership of shared happiness and pleasures as demonstrated through their mutual interest in the preservation of automotive history and their love of antique cars, and as members of the Antique Automobile Club of America and the Deep South Region A.A.C.A.; and

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and a 55th Wedding Anniversary is indeed a cause for great rejoicing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate this exemplary couple, Mr. and Mrs. Albert Carver of Elberta, Alabama, on their 55th Wedding Anniversary and their long and happy lives together, and extend to them our sincere best wishes for continued good health and happiness in the years to come.

Approved March 20, 1998

Time: 8:03 A.M.

Act No. 98-200

H.J.R. 140 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. C. GAVIN EDWARDS OF LUCEDALE, MISSISSIPPI, ON THE OCCASION OF THEIR 56TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the 56th Wedding Anniversary of Mr. and Mrs. C. Gavin Edwards of Lucedale, Mississippi, on September 5, 1998; and

WHEREAS, C. Gavin and Gladys Finch Edwards were joined in Holy Matrimony on September 5, 1942, in Lucedale, Mississippi, and, through the ensuing years, have shared the accomplishments, happiness, and sorrows encountered in a life of mutual trust and devotion; and

WHEREAS, they have distinguished themselves as valued and respected members of their community and, to all who have witnessed their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, indeed, this happy couple continues to enjoy life to the fullest in a partnership of shared happiness and pleasures as demonstrated through their mutual interest in the preservation of automotive history and their love of antique cars, and as members of the Antique Automobile Club of America and the Deep South Region A.A.C.A.; and

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and a 56th Wedding Anniversary is indeed a cause for great rejoicing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate this exemplary couple, Mr. and Mrs. C. Gavin Edwards of Lucedale, Mississippi, on their 56th Wedding Anniversary and their long and happy lives together, and extend to them our sincere best wishes for continued good health and happiness in the years to come.

Approved March 20, 1998

Time: 8:04 A.M.

Act No. 98-201

H.J.R. 147 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. WINSTON JARVIS, JR., ON THEIR 52ND WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are extended to Winston and Ann (Newsom) Jarvis, Jr., of Mobile, Alabama, who will celebrate their 52nd Wedding Anniversary on September 14, 1998; and

WHEREAS, joined in Holy matrimony on September 14, 1946, in Mobile, Alabama, they have since remained steadfastly faithful to their wedding vows, and to all those who have witnessed their commitment to the ideals of marriage, the lasting partnership of Mr. and Mrs. Jarvis is an enviable example of trust and devotion; and

WHEREAS, not only are Mr. and Mrs. Jarvis to be congratulated on this milestone in their long and happy marriage, but also upon the character and accomplishments of their lives together; and

WHEREAS, Mr. and Mrs. Jarvis, who have demonstrated their devotion to the preservation of antique cars as members of the Antique Automobile Club of America and the Deep South

Region Car Club A. A. C. A., will be honored at a buffet breakfast sponsored by the Deep South Region Car Club in Mobile, Alabama, on February 14, 1998, and will enjoy the hospitality of family and friends while sharing the beauty of life and trips along the way; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate Mr. and Mrs. Jarvis on their 52nd Wedding Anniversary, and do further direct that they receive a copy of this resolution, executed in highest personal regard and with sincere best wishes for many more happy years together.

Approved March 20, 1998

Time: 8:05 A.M.

Act No. 98-202

H.J.R. 157 – Rep. Sanderford

HOUSE JOINT RESOLUTION

RECOGNIZING DARL GENE DALRYMPLE UPON HIS PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Darl Gene Dalrymple of Huntsville, Alabama, unselfishly served in the law enforcement field for almost three decades in several areas of the state including a stint as mansion security during Governor George Wallace's administration before his retirement from the Department of Public Safety as a state trooper on September 1, 1996; and

WHEREAS, in addition to his many professional responsibilities and pursuits, Mr. Dalrymple has been very active in school and community activities by coaching little league sports in the area of basketball, softball, t-ball, baseball, and football, and is the voice of the Sparkman High School Senators and Monrovia Parks Department Little League Football; and

WHEREAS, maintaining a keen interest in fishing, Mr. Dalrymple is well-versed on how the fish and their forage relate to weather and other environmental factors, has an understanding of the lifestyle of the fish, and is there waiting when pandemonium erupts on the surface of the water; and

WHEREAS, the high esteem in which Darl Gene Dalrymple is held by his wife, Betty, their three children, and myriad of friends and other individuals fortunate enough to know him indeed stands as a testament for others who strive for the best in personal, professional, and community life; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama House of Representatives hereby recognizes Darl Gene Dalrymple on his distinguished record of career and civic achievements and further directs that he receive a copy of this resolution as a token of our respect and best wishes.

Approved March 20, 1998

Time: 8:06 A.M.

Act No. 98-203

H.J.R. 160 – Rep. Newton (C)

HOUSE JOINT RESOLUTION

COMMENDING DR. WALTER CLAY NICHOLAS ON HIS PROFESSIONAL ACHIEVEMENTS.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of Dr. Walter Clay Nicholas, who retired after a successful career in the field of dentistry in 1997; and

WHEREAS, born on May 30, 1922, in Excel, Alabama, he attended Excel High School and Auburn University, ultimately earning his DDS Degree from Emory University School of Dentistry in 1946; and

WHEREAS, Dr. Nicholas, who is licensed to practice in both Alabama and Georgia, began his career as an associate dentist to Dr. T. E. Greene in 1946 and, shortly thereafter, interrupted his career to serve his country with honor in the United States Air Force; and

WHEREAS, he resumed his dental practice in 1955 in Greenville, Alabama, and held numerous certificates in dental societies, including a lifetime membership in the American Dental Association; he also is listed in the prestigious Library of Alabama Lives; and

WHEREAS, Dr. Nicholas indeed reflects the best in a public servant as evidenced by his distinguished service with the Board of Directors of the Greenville Area Chamber of Commerce and as a charter member and president of the Greenville Kiwanis Club; and

WHEREAS, a devoted member of First United Methodist Church of Greenville since 1946, Dr. Nicholas works tirelessly in all phases of church activities including service with the Board of Stewards for 52 years, Church School Superintendent for 13 years, and as a member of the Wesleyan Fellowship Sunday School Class and Methodist Men's Club; and

WHEREAS, Dr. Nicholas was married to the late Dorothy Henderson Nicholas of Greenville, Alabama, in May 1951, and they were the proud parents of Walter Clay Nicholas, Jr., Thomas Hilliary Nicholas, and Joseph Claud Nicholas; and loving grandparents to a grandson, Adam Joseph Nicholas; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby extended to Dr. Walter Clay Nicholas, for whom a copy of this resolution shall be provided with sincere best wishes for continued success in his future endeavors.

Approved March 20, 1998

Time: 8:07 A.M.

Act No. 98-204

H.J.R. 170 – Rep. Sanderford

HOUSE JOINT RESOLUTION

COMMENDING THOMAS BRECCIAROLI AS RECIPIENT OF A 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARD.

WHEREAS, Thomas Brecciaroli, an esteemed resident of Huntsville, Alabama, and a student at Grissom High School, has achieved national recognition for exemplary volunteer service by receiving a 1998 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Mr. Brecciaroli earned this award by organizing a club to raise awareness of HIV and AIDS prevention throughout his school; and

WHEREAS, the success of the State of Alabama, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Thomas Brecciaroli who use their considerable talents and resources to serve others; and

WHEREAS, Mr. Brecciaroli is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to his family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Thomas

Brecciaroli is indeed commended as a recipient of a Prudential Spirit of Community Award, and for his outstanding record of volunteer service, peer leadership, and community spirit, and, by copy of this resolution, is extended best wishes for continued success.

Approved March 20, 1998

Time: 8:08 A.M.

Act No. 98-205

H.J.R. 172 – Reps. Dukes and Crigler

HOUSE JOINT RESOLUTION

COMMENDING MARTHA HARRIS OF DECATUR, ALABAMA, AS THE RECIPIENT OF THE FLORA BOYD AWARD.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes Martha Harris of Decatur, Alabama, as recipient of the Flora Boyd Award on behalf of the Alabama Residential Child Care Association and the Flora Boyd Award Committee; and

WHEREAS, the Flora Boyd Award was named to honor the late Flora Boyd, a longtime direct child care worker whose many characteristics included a caring, loving, gentle yet firm approach in dealing with children of all ages and all degrees of disturbance, and Ms. Martha Harris is indeed a worthy recipient of this notable distinction; and

WHEREAS, over the past 14 years, through the work of the Alabama Baptist Children's Home, Martha Harris has lovingly nurtured and cared for countless children given unto her care as a houseparent, providing a positive force in their lives; and

WHEREAS, lovingly committed to the welfare and well-being of her young charges, Ms. Harris has served with tireless devotion to provide guidance, training, love and support to these young children in need as if they were her own, enriching their lives with worthwhile experiences; establishing high standards of behavior in a firm but loving manner; setting an example for a strong spiritual life; and offering encouragement that they might succeed in all of their endeavors; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That as recipient of the Flora Boyd Award, and in recognition of outstanding service to our state's lost and troubled youth, we hereby most highly commend and congratulate Martha Harris of Decatur, Alabama, to

whom we are eternally grateful, and for whom a copy of this resolution shall be provided.

Approved March 20, 1998

Time: 8:09 A.M.

Act No. 98-206

H.J.R. 175 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM FARRAR UPON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, William Farrar, a native of LaGrange, Georgia, and resident of Geneva, Alabama, is indeed deserving of highest praise and recognition for his induction into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, after receiving his B. S. degree from Troy State University and Master's degree from Auburn University, Mr. Farrar, a stellar baseball player, competed in both the Alabama-Florida League and several League All-Star Games; and

WHEREAS, as an outstanding coach at Geneva High School, he personified that positive ability to persevere and win while leading the Geneva baseball team to eight county championships; and

WHEREAS, the recipient of numerous awards, Mr. Farrar received the prestigious Geneva Recreation Employee of the Year Award and was honored by having the baseball field at Chapman Park, now Farrar Field, named in his honor; and

WHEREAS, a faithful member of First Methodist Church in Geneva, he exerts a profound influence as a member of the Geneva Rotary Club, and is involved in the Geneva City Schools and countless other sports activities in Geneva; and

WHEREAS, William Farrar, who has successfully developed his professional career through dedication and commitment to the furtherance and support of public education for 34 years, is indeed an exemplar of extraordinary leadership and is deserving of his induction into the 1997 Wiregrass Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate and commend Mr. Farrar, and do further

direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 20, 1998

Time: 8:10 A.M.

Act No. 98-207

H.J.R. 176 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING JOHN E. CHRISTY UPON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, John E. Christy, a native of Brownfield, Texas, and resident of Dothan, Alabama, is indeed deserving of highest praise and recognition for his induction into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, Mr. Christy, a multi-sport athlete who brought great honor to himself in football, basketball, softball, tennis, and track during his high school career, has been an outstanding sports official for over 34 years; and

WHEREAS, he has a deep commitment to his religious beliefs as Minister of Music for Pinckard Baptist Church, where he has dedicated his life to Christian music ministry and been instrumental in developing summer recreation programs at area churches as well as Shreveport, Louisiana, which now has a 10-field facility; and

WHEREAS, through his generous spirit and great sensitivity to the needs of others, eight of the churches involved in the program have built gymnasiums, the Columbia Baptist Association has over 50 teams, and numerous churches have built ball fields for league games; and

WHEREAS, John E. Christy, who is married to his loving and supportive wife, Frances, also has been especially significant in his efforts on behalf of the Dothan Community as an official for city leagues to junior college level and is indeed an exemplar of extraordinary leadership ability and is deserving of his induction into the 1997 Wiregrass Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate and commend Mr. Christy, and do further direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 20, 1998

Time: 8:11 A.M.

Act No. 98-208

H.J.R. 177 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING WADE C. MORRISON ON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, it is with great pleasure that the Alabama Legislature notes the induction of Wade C. Morrison into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, a native of Abbeville, Alabama, and a graduate of Alabama State University, Wade C. Morrison gained much acclaim as head basketball coach at Carver High School and following at Dothan High School; and

WHEREAS, known for his keen wit, expertise, and philosophical look on the game of basketball, Coach Morrison coached many notable athletes over his illustrious career, including Carl Mitchell, Sr., of Dothan High, and received many honors and distinctions including Coach of the Year on three occasions; Man of the Year in 1986; and as recipient of the Alabama High School Athletic Association Coaches' Award twice; and

WHEREAS, Coach Morrison has continued to work with young people since his retirement, and is currently working with the Kids-at-Risk Program with the Dothan Housing Authority; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend and congratulate Coach Wade C. Morrison on his induction into the 1997 Wiregrass Sports Hall of Fame, and direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 20, 1998

Time: 8:12 A.M.

Act No. 98-209

H.J.R. 179 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING ALFRED PEAVY ON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, a native of Clarke County and a graduate of the Clarke County School System, Alfred Peavy received his B. S.

degree from Alabama State University, and a Master's of Education degree from Troy State University; and

WHEREAS, an outstanding educator and leader in the field of education, Alfred Peavy served 35 years as an educator and enjoyed a stellar career in the coaching ranks spanning some 19 years, during which he led his football program to an impressive 94-42 mark, his basketball program to a mark of 200-75, and in track meets, his squad won and tied four times, respectively; and

WHEREAS, in acclaim for his achievements, Coach Peavy was the recipients of numerous honors and distinctions in athletics as well as civic involvement including recognition by the Alabama High School Athletic Association for distinguished service; by the Enterprise City Board of Education for outstanding service, and for 35 years of service in the field of education, all in 1991; and in 1993, as recipient of the Martin Luther King Community Awareness Award; and

WHEREAS, now retired, Coach Peavy still remains an active member of the Enterprise community, serving as a trustee of the Pleasant Grove Baptist Church, and as a member of both the Coffee County and Alabama Retired Teachers Association; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend and congratulate Coach Alfred Peavy on his induction into the 1997 Wiregrass Sports Hall of Fame, and direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 20, 1998

Time: 8:13 A.M.

Act No. 98-210

H.J.R. 183 – Rep. Vance

HOUSE JOINT RESOLUTION

COMMENDING LESLIE COGGINS AS RECIPIENT OF A 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARD.

WHEREAS, Leslie Coggins, an esteemed resident of Phenix City, Alabama, and a student at Phenix City Middle School, has achieved national recognition for exemplary volunteer service by receiving a 1998 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Coggins, who was one of the state's top two youth volunteers, earned this award by initiating a project to make burial gowns for the families of premature infants in an effort to ease their pain; and

WHEREAS, the success of the State of Alabama, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Leslie Coggins who use their considerable talents and resources to serve others; and

WHEREAS, Ms. Coggins is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Leslie Coggins is indeed commended as a recipient of a Prudential Spirit of Community Award, and for her outstanding record of volunteer service, peer leadership, and community spirit, and, by copy of this resolution, is extended best wishes for continued success.

Approved March 20, 1998

Time: 8:14 A.M.

Act No. 98-211

H.J.R. 180 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING COMER BAKER UPON HIS INDUCTION INTO THE 1997 WIREGRASS SPORTS HALL OF FAME.

WHEREAS, Comer Baker, son of Locy and Vera Baker, is a native of Abbeville and graduate of Alabama State University, and is indeed deserving of highest praise and recognition for his induction into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, Mr. Baker, whose career as a basketball coach spanned 30 years, posted a remarkable 580-80 record, won seven area championship victories and, during his three years at Abbeville, won the area title and placed fourth in the state, giving him a 90-29 record; and,

WHEREAS, personifying that positive ability to persevere and win, Mr. Baker was an all-state basketball player as a prepster and garnered recognition as a coach in the United States Army, winning the championship with a 25-0 record, and, later, posting a 17-1 mark while serving his country with honor in Germany; and

WHEREAS, over the years, Mr. Baker, who displays a keen sense of sportsmanship and competitive spirit, has contributed his time, energy, and many talents as a coach to help youngsters hone their basketball skills and is indeed an exemplar of extraordinary leadership ability and significant achievement who is entirely deserving of induction into the Wiregrass Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate and commend Mr. Baker, and do further direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 20, 1998

Time: 8:15 A.M.

Act No. 98-212

H.J.R. 182 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING HUGH DUDLEY KIRKLAND UPON HIS INDUCTION INTO THE WIREGRASS HALL OF FAME.

WHEREAS, Hugh Dudley Kirkland, a native of Newville, Alabama, is indeed deserving of highest praise and recognition for his induction into the 1997 Wiregrass Sports Hall of Fame; and

WHEREAS, a valuable three-sport participant at Newville High School, Mr. Kirkland signed an athletic scholarship with the University of Alabama in 1938, and pitched the Crimson Tide to the Southeastern Conference Championship, posting a 5-0 mark; and

WHEREAS, while embarking on a semi-pro baseball career, he played a vital role in leading Calloway Mills to the Georgia-Florida District Title and advanced to the National Congress Tournament while pitching for the Tallassee Indians; he also was named to the All-State Team and won a unanimous selection to the All-American Team; and

WHEREAS, enjoying a bonus contract with the Boston American League Baseball Company, Mr. Kirkland also posted

winning records on the mound for two years with both the Middle Atlantic and Piedmont Leagues, winning pennants for both leagues; and

WHEREAS, Mr. Kirkland, who suffered a major leg injury while serving his country with honor in the United States Army, later organized and managed an extremely successful semi-pro baseball league and was a devoted sponsor of Little League and Pony League teams in Newville; and

WHEREAS, he assisted Paul "Bear" Bryant with his football recruiting program during the 1960s and 1970s, and was the recipient of the prestigious Leadership Award from the Alabama Cooperative Extension for his outstanding work with young people; and

WHEREAS, Hugh Dudley Kirkland is married to his loving and supportive wife, Betty, and they are the extremely proud and doting grandparents to eight grandchildren; and

WHEREAS, Mr. Kirkland is indeed an exemplar of extraordinary leadership ability and significant achievement who is entirely deserving of his induction into the 1997 Wiregrass Sports Hall of Fame; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most heartily congratulate and commend Mr. Kirkland on his induction into the Wiregrass Sports Hall of Fame, and do further direct that he receive a copy of this resolution of sincere tribute as a recipient of this prestigious honor.

Approved March 20, 1998

Time: 8:16 A.M.

Act No. 98-213	H.J.R. 186 – Reps. Melton, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L),
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Hamilton, Hammett, Haney,
 Hawk, Hawkins, Hayden,
 Hill, Hilliard, Hinshaw,
 Hogan, Holmes, Hooper,
 Houston, Jackson,
 Johnson (E), Johnson (R),
 Jorgensen, Kennedy,
 Knight (A), Knight (J),
 Laird, Layson, Letson,
 Lindsey, Maull, McAdory,
 McClammy, McDaniel,
 McKee, McMillan, Millican,
 Minnifield, Mitchell, Moore,
 Morrison, Morrow, Morton,
 Murphree, Newton (C),
 Newton (D), Page, Papucci,
 Parker (P), Parker (T),
 Payne, Penry, Perdue,
 Pringle, Robinson,
 Rogers (J), Rogers (M),
 Sanderford, Sanderson,
 Seibenhener, Sims, Smith,
 Spratt, Starkey, Thomas (D),
 Thomas (J), Townsend,
 Turner, Turnham, Vance,
 Venable, Warren, White,
 Willis and Wren

HOUSE JOINT RESOLUTION

COMMENDING THE MURPHY AFRICAN-AMERICAN MUSEUM DURING BLACK HISTORY MONTH.

WHEREAS, Black History Month in Alabama is recognized during February 1998, and in recognition thereof, the Murphy African-American Museum (MAAM) in Tuscaloosa, Alabama, is most highly commended for providing excellent historical information and for the preservation of African-American culture; and

WHEREAS, the Murphy African-American Museum also offers innovative educational programs toward a better appreciation of the contributions and accomplishments of African-Americans, as well as emphasizing the importance of historic preservation as a tool for understanding American history; and

WHEREAS, offering programs and exhibits designed to appeal to individuals of all ages, including art, literature, history, science, and social studies, the MAAM provides guest speakers and tours, and may be used for community meetings, workshops, and receptions; and

WHEREAS, the Museum has exceptionally succeeded in its mission of disseminating knowledge, and it is highly appropriate to recognize and applaud their exemplary service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Murphy African-American Museum is commended for providing superior information to fellow Americans on the preservation of African-American culture and history.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to the Murphy African-American Museum for appropriate display with our sincere best wishes.

Approved March 20, 1998

Time: 8:17 A.M.

Act No. 98-214

S.J.R. 72 – Senator Windom

SENATE JOINT RESOLUTION

COMMENDING DR. KATHRYN COUMANIS OF MOBILE, ALABAMA, AS A RECIPIENT OF THE 1998 SALUTE TO WOMEN AWARD.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Dr. Kathryn Coumanis of Mobile, Alabama, who will be honored at ceremonies in Washington D. C. on February 28, 1998, as a recipient of the 1998 Salute to Women Award; and

WHEREAS, the Salute to Women Award is bestowed every two years by the Daughters of Penelope, a Hellenic organization with 12,500 members in the United States, Canada, and Greece, and Dr. Coumanis, who was one of only two women in the country to receive the prestigious honor, was selected for her outstanding contributions as founder and director of Penelope House in Mobile, a shelter for battered women and their children; and

WHEREAS, Dr. Coumanis, who founded Penelope House in 1978, is a licensed certified social worker and retired from the Alabama Department of Human Resources; she received her bachelor's degree in elementary education from Spring Hill College, and an associate degree in the Greek language and religion from St. Basil's Academy in Garrison, New York; earned a master's degree in social work from Tulane University; and holds a doctorate in higher education administration from the University of

Alabama; she is a devoted wife and mother, and she and husband, Nick, are the proud parents of a son, Christ, and a daughter, Tonie Ann; and

WHEREAS, Dr. Coumanis was named First Lady of Mobile in 1985, and has received numerous awards and honors for her community service work in the area of domestic violence; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That as a recipient of the 1998 Salute to Women Award, and in tribute to her many deeds of compassion and concern for those in need, we hereby most highly commend and congratulate Dr. Kathryn Coumanis of Mobile, Alabama, for whom a copy of this resolution shall be provided

Approved March 23, 1998

Time: 8:00 A.M.

Act No. 98-215

S.J.R. – Senator Ghee

SENATE JOINT RESOLUTION

RECOGNIZING MAY 1998 AS MOTORCYCLE AWARENESS MONTH IN ALABAMA.

WHEREAS, countless individuals across our state and nation use motorcycle riding for transportation to their jobs or schools, as an economical form of recreation, and while assisting law enforcement officers in the performance of their jobs; and

WHEREAS, it is especially important that the citizens of the State of Alabama be aware of motorcycle safety while riding motorcycles on the streets and highways of our state to develop good driving habits and to understand the importance of wearing proper cycling clothes, such as helmets, gloves, and boots; and

WHEREAS, all motorcycle organizations and dealerships, along with highway law enforcement, are encouraged to join with the Alabama Motorcycle Safety Program and Alliance Bikers Active Toward Education (ABATE) of Alabama, Inc., in actively promoting safety operation, rider training, improved licensing efforts, and motorist awareness of motorcyclists; and

WHEREAS, motor vehicle laws affect the operation of motorcycles as well as automobiles and other kinds of vehicles and, during

May 1998, all highway users in the State of Alabama are urged to join in an effort to promote highway safety and demonstrate skill in handling motor vehicles; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and support of the efforts of the Alabama Motorcycle Safety Program and the Alliance Bikers Active Toward Education of Alabama, we hereby designate May 1998 as Motorcycle Awareness Month in Alabama.

Approved March 23, 1998

Time: 8:01 A.M.

Act No. 98-216

S.J.R. 83 – Senators Dial, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner and Windom

SENATE JOINT RESOLUTION

URGING CONGRESS TO PROVIDE FOR A MORE EQUITABLE DISTRIBUTION OF GASOLINE TAX PROCEEDS TO THE STATES.

WHEREAS, in Alabama, for each \$1.00 of federal gasoline tax proceeds that are distributed to the Federal Treasury, we are reallocated 78 cents for road construction and repair; and

WHEREAS, this inequity of reallocation of funds at the federal level creates a true hardship on Alabama taxpayers in the form of higher state gasoline taxes for road maintenance; and

WHEREAS, due to the rural economic demographics of this state, our citizens must necessarily travel farther to the marketplace and workplace, and as a result incur higher motor fuel taxes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge

the United States Congress to enact legislation that would provide a more equitable reallocation of federal gasoline tax proceeds to the states.

RESOLVED FURTHER, That a copy of this resolution be provided to each member of the Alabama Congressional Delegation as an expression of our concerns and expectations in this important issue.

Approved March 23, 1998

Time: 8:02 A.M.

Act No. 98-217

S.J.R. 84 – Senator Denton

SENATE JOINT REOSLUTION

URGING CONGRESS TO TAKE ACTION ON FEDERAL HIGHWAY LEGISLATION AND FUNDING.

WHEREAS, a safe and efficient highway system is essential to the nation's international competitiveness, key to domestic productivity, and vital to our quality of life; and

WHEREAS, Alabama has critical highway investment needs that cannot be addressed with current financial resources; the Federal Highway Administration rates 4,822 miles of Alabama's most important roads in either poor or mediocre condition and judges 32 percent of our bridges to be deficient; and

WHEREAS, the current level of federal funding for the nation's highway system is inadequate to meet rehabilitation needs, to protect the safety of the traveling public, to begin solving congestion and rural access problems, to conduct adequate transportation research, and to keep the United States competitive in a global economy; and

WHEREAS, the federal highway program is financed by dedicated user fees collected from motorists to improve the highway system and deposited in the federal Highway Trust Fund; The Taxpayer Relief Act of 1997 transferred all federal motor fuel taxes into the fund, but provided no mechanism to ensure that the funds are spent; and

WHEREAS, the 1998 congressional budget would constrain federal highway spending well below the level of highway tax receipts, allowing the fund's cash balance to grow from just over \$22 billion today to more than \$70 billion by 2003; and

WHEREAS, Alabama and other states will be prohibited from spending federal highway funds after April 30, 1998, unless Congress and the President enact new highway legislation by that date, and without federal funding, many states will be forced to delay life-saving safety improvements, congestion relief projects, and other road and bridge improvements; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby strongly urge the U.S. Congress to enact legislation reauthorizing the federal highway program by May 1, 1998, that would fund the program at the highest level that the user-financed Highway Trust Fund will support.

RESOLVED FURTHER, That copies of this resolution be provided to the presiding officers of the Senate and the House of Representatives, and President Clinton.

Approved March 23, 1998

Time: 8:03 A.M.

Act No. 98-218

S.J.R. 87 – Senator Dial

SENATE JOINT RESOLUTION

COMMENDING JOHN B. TOLAND, JR., OF OXFORD, ALABAMA, FOR DISTINGUISHED SERVICE.

WHEREAS, special public recognition and highest commendation are herein accorded John B. Toland, Jr., of Oxford, Alabama, an outstanding educator and leader in the field of education; and

WHEREAS, in a career in education which spans some 30 years, John B. Toland, Jr., has served successively as a teacher at Johnston Junior High School; as assistant principal and principal at Anniston High School; and as Superintendent of the Oxford City School System since 1990; and

WHEREAS, over the years, in all aspects of his long and dedicated tenure, John Toland has remained committed in his resolve to provide and foster a quality education for the youth of the Oxford city schools, and resolute in all his efforts on their behalf, and has earned the highest admiration and regard of all with whom he has been associated; and

WHEREAS, he has served as a worthy role model for all educational professionals, and through his many accomplishments has

impacted the lives of countless young students, and greatly contributed to their future as successful and responsible citizens; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend John B. Toland, Jr., for his outstanding service and achievements in the field of education, and do further direct that he receive a copy of this resolution of sincere praise and warm wishes for every future success and happiness in retirement.

Approved March 23, 1998

Time: 8:04 A.M.

Act No. 98-219

S.J.R. 88 – Senator Ghee

SENATE JOINT RESOLUTION

COMMENDING THE WEAVER HIGH SCHOOL BEARCATS WRESTLING TEAM FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, for the third year in a row, the incredible Weaver High School Bearcats are the Masters of the Mat, capturing the State High School 1A-4A Wrestling Championship; and

WHEREAS, indeed, this group of talented athletes and premier pin men, masterfully coached by Gene Taylor, has amassed a remarkable record of achievements including, among many, six undefeated seasons in a row; 200 consecutive dual meets; 50 tournaments wins between 1992-1998; as a State qualifier seven consecutive years (1992-1998); and the second longest streak of consecutive victories ever; and

WHEREAS, in tribute to their achievements, this dynamic high school wrestling dynasty was named by Wrestling U.S.A. magazine as one of the Top 100 Teams of the Decade in the United States, a further testament to the talent and tenacity of these dedicated and devoted young men; and

WHEREAS, of further interest, Bearcats Head Coach Taylor, who has been at Weaver for nine years, has a career record of 308-23; has coached 17 of 17 winning seasons; and was selected as 1A-4A Coach of the Year in 1993, 1996, 1997 and again in 1998; and selected as Alabama Man of the Year by Wrestling U.S.A. in 1996; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most

highly commend and congratulate Coach Gene Taylor and the Weaver High School Bearcats Wrestling Team on their outstanding career achievements, extraordinary Championship season, and the 1A-4A State Title, and, by copy of this resolution, extend to them our sincere regard and very best wishes for every future success.

Approved March 23, 1998

Time: 8:05 A.M.

Act No. 98-220

S.J.R. 90 – Senators Fooie, and Steele

SENATE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. WILLIAM HILL JOHNSON OF NORTHPORT, ALABAMA, ON THE OCCASION OF THEIR 50TH WEDDING ANNIVERSARY.

WHEREAS, it is with great pleasure that the Alabama Legislature notes the 50th Wedding Anniversary of Mr. and Mrs. William Hill Johnson of Northport, Alabama, on February 14, 1998; and

WHEREAS, in celebration of this special event in their lives, family and friends will gather for a reception to be held in their honor at the home of Sandra Bunn in Northport; and

WHEREAS, natives of Americus, Georgia, and residents of Tuscaloosa County, Alabama, for some 34 years, William Hill and Martha Ellen Johnson were joined in holy matrimony on February 14, 1948, and through the ensuing years have shared the accomplishments, joys, and sorrows encountered in a life of mutual dedication and devotion; and

WHEREAS, over the years, they have distinguished themselves as respected and valued members of the community, and to all those who have witnessed their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, sharing in this milestone in their long and happy marriage will be their two children, Ellen Johnson Bass and William Hill Johnson, Jr., and their five grandchildren, Jennifer Ashley Bass, Margaret Ellen Johnson, William Clayton Bass, William Hill Johnson, III, and James Fletcher Johnson

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That heartiest

congratulations are hereby extended to Mr. and Mrs. William Hill Johnson of Northport, Alabama, on the joyous occasion of their 50th Wedding Anniversary, February 14, 1998, and it is further directed that they receive a copy of this resolution of sincere best wishes for continued good health and happiness for many more years to come.

Approved March 23, 1998

Time: 8:06 A.M.

Act No. 98-221

S.J.R. 92 – Senator Langford

SENATE JOINT RESOLUTION

COMMENDING EVERETT MCCORVEY FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the voice of Everett McCorvey, a native of Montgomery, Alabama, has been heard in some of the most renowned places in the world including the Kennedy Center, Radio City Music Hall, and the Metropolitan Opera; and

WHEREAS, since his debut in 1982, in the Sherwin Goldman production of Porgy and Bess, a two year engagement that took him from New York to the Far East, Everett McCorvey has performed in such major roles as Don Jose in Carmen, Ferrando in Cosi Fan Tutte, Fenton in Falstaff, and Eisenstein in Die Fledermaus; and

WHEREAS, Everett McCorvey is also a tenured professor of voice and coordinator of the opera program at The University of Kentucky and, as a recitalist, gives many concerts, masterclasses and workshops throughout the United States, either solo or with his wife, Alicia; and

WHEREAS, additionally, Mr. McCorvey is founder and director of The American Spiritual Ensemble, an ensemble of professionally trained singers which has performed throughout the States and in Spain a repertoire of treasured spirituals he hopes to perpetuate; he also has become actively involved with the National Endowment for the Arts, and has traveled the nation on behalf of NEA, evaluating young artist programs applying to the NEA for funding; and

WHEREAS, indeed, Everett McCorvey has contributed significantly as a performer, as a supporter of the arts, and as a teacher of countless young people, many of whom in like manner are developing into master opera performers and voice teachers themselves; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his outstanding contributions and achievements, we hereby most highly commend Everett McCorvey, a native Alabamian of whom we are justly proud, and for whom a copy of this resolution shall be provided as an expression of our sincere tribute and esteem.

Approved March 23, 1998

Time: 8:07 A.M.

Act No. 98-222

S.J.R. 96 – Senator Poole

SENATE JOINT RESOLUTION

COMMENDING WETHERLY COLLINS, MAGGIE KING, AND WEBB LAVENDER AS WINNERS OF THE EXPLORAVISION AWARDS PROGRAM.

WHEREAS, Wetherly Collins, Maggie King, and Webb Lavender have achieved national recognition as winners of the 1998 Toshiba/National Science Teachers Association ExploraVision Awards program and will be recognized at an official awards ceremony at Pickens Academy in Carrollton, Alabama, on March 19, 1998; and

WHEREAS, with 48 regional winning teams chosen from nearly 5,000 team entries, this annual competition represents 17,000 students of all grade levels, interests, and abilities and provides them with an opportunity to use their imagination to create a vision for the future; and

WHEREAS, the success of Wetherly Collins, Maggie King, and Webb Lavender of Pickens Academy, who have indeed displayed leadership qualities and characteristics of good citizenship, are young Alabamians whose vast array of accomplishments have brought great credit to their families, school, and the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate and honor Wetherly Collins, Maggie King, and Webb Lavender as winners of the 1998 Toshiba/National Science Teachers Association ExploraVision Awards and, by copy of this resolution to each of them, extend best wishes for their continued success.

Approved March 23, 1998

Time: 8:08 A.M.

Act No. 98-223

S.J.R. 97 – Senator Windom

SENATE JOINT RESOLUTION

COMMENDING IDA LEE HARTZOG ON THE OCCASION OF HER 90TH BIRTHDAY.

WHEREAS, it is with warm affection and heartfelt congratulations that Ida Lee Hartzog, a native of Blue Springs, Alabama, is recognized on the occasion of her 90th birthday on March 22, 1998; and

WHEREAS, a warm and gracious lady who has been blessed by God and her friends at Church of Jesus Christ of Latter Day Saints, Mrs. Hartzog delights in working with arts and crafts, fishing, and gardening and has won numerous blue ribbons at the State Fair for her extraordinary and beautiful quilting; and

WHEREAS, a valued employee with Van Heusen shirt manufacturing plant in Clayton, Alabama, for many years, Mrs. Hartzog continues to remain vitally interested in the well-being of her many friends and neighbors and often shares her delicious baked goods with the sick and homebound, all of whom hold her in highest personal regard; and

WHEREAS, a well-known and much loved member of the community, Mrs. Hartzog was married to her late husband, Hubert L. Hartzog, for 49 years, and is the loving mother to Bernice Riddle and Joe and Leon Hartzog; she also is the proud grandmother to eight grandchildren and eleven great grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we join with family and friends in congratulating Ida Lee Hartzog on the occasion of her 90th birthday, and do further direct that she receive a copy of this resolution, executed in sincere admiration and esteem, and with all best wishes for many years to come.

Approved March 23, 1998

Time: 8:09 A.M.

Act No. 98-224

S.J.R. 99 – Senator Hill

SENATE JOINT RESOLUTION

COMMENDING IMESIA THOMAS AS RECIPIENT OF A 1998 PRUDENTIAL SPIRIT OF COMMUNITY AWARD.

WHEREAS, Imesia Thomas, an esteemed resident of Sylacauga, Alabama, and a student at Mountainview School, has achieved

national recognition for exemplary volunteer service by receiving a 1998 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by The Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ms. Thomas earned this award by launching a school beautification program to clean up the campus and plant flowers around her school; and

WHEREAS, the success of the State of Alabama, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Imesia Thomas who use their considerable talents and resources to serve others; and

WHEREAS, Ms. Thomas is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Imesia Thomas is indeed commended as a recipient of a Prudential Spirit of Community Award, and for her outstanding record of volunteer service, peer leadership, and community spirit, and, by copy of this resolution, is extended best wishes for continued success.

Approved March 23, 1998

Time: 8:10 A.M.

Act No 98-225

S.J.R. 100 – Senator Waggoner

SENATE JOINT RESOLUTION

COMMENDING JACK H. HARRISON FOR OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, the Alabama Legislature notes that Jack H. Harrison of Hoover, Alabama, is retiring as City Attorney of Hoover after 31 years of dedicated professional service; and

WHEREAS, Jack H. Harrison, a resident of the City of Alabaster, served in the United States Air Force from 1957 to 1960, and since that time has been in private civil practice in Birmingham, Alabama, and has also served as city attorney for the Cities of Trussville and Homewood; and

WHEREAS, Mr. Harrison distinguished himself as lead attorney in the class action litigation that resulted in the City of Birmingham government changing the council to single-member districts and, in 1967, he incorporated the City of Hoover and has since successfully defended the city against every tort claim; and

WHEREAS, Mr. Harrison has membership in numerous professional and civic associations including the Defense Research Institute, and the Alabama Municipal Attorneys Association, and he hosted the national weekly television program "Lawline"; he is a past Potentate of Zamora Temple and a member and past chairperson of the Board of Deacons of Dawson Memorial Baptist Church; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor of the many professional accomplishments and of his numerous contributions to the citizens of this state, we most heartily commend Mr. Jack H. Harrison and provide a copy of this resolution on the occasion of his retirement with best wishes for him and his wife, Lynn, for all of their future endeavors.

Approved March 23, 1998

Time: 8:11 A.M.

Act No. 98-226

S.J.R. 89 – Senator Poole

SENATE JOINT RESOLUTION

COMMENDING THE TUSCALOOSA ACADEMY BOYS BASKETBALL TEAM ON WINNING THE 1998 ALABAMA INDEPENDENT SCHOOL ASSOCIATION 3A STATE CHAMPIONSHIP.

WHEREAS, it is with great pride and pleasure that we recognize the Tuscaloosa Academy boys basketball team for its 1998 championship season in Class 3A Alabama Independent School Association (AISA) competition; and

WHEREAS, Tuscaloosa Academy captured its seventh championship of the decade by defeating the Sumiton Christian Eagles 52-41; and

WHEREAS, under the able direction of head coach Scott Brenizer and assistant coaches Scott Taylor and Cameron James, the Tuscaloosa Academy Knights compiled an impressive 23-4 record for the year; and

WHEREAS, the members of this talented team include Albert Lewis, Joe Eatman, Jason Benton, Richard Coogan, Ted Gryska,

Kent Jackson, Jonathan Kohl, Tom Meriwether, Ben Wilkin, Rusty Allen, Marc delos Reyes, Harvey Edwards, Russ Gambrell, Josh McIlwain, Tyler Watkins, and Courtland Williams; and

WHEREAS, thanks to the dedicated effort of each team member, the solid coaching staff, and the outstanding support of its loyal fans, the 1997-1998 season will be remembered as one of the finest at Tuscaloosa Academy; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby heartily commend the Tuscaloosa Academy boys basketball team on its 1998 AISA Class 3A championship, and direct that a copy of this resolution be provided to Coach Brenizer for proper presentation and display

Approved March 23, 1998

Time: 8:12 A.M.

Act No. 98-227

S.J.R. 91 – Senator Langford

SENATE JOINT RESOLUTION

COMMENDING CYNTHIA UNDERWOOD ON PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Cynthia Underwood of Montgomery, Alabama, has brought great credit and distinction to herself through her career achievements, and it is appropriate to highlight her many accomplishments, and to extend special honor and highest commendation; and

WHEREAS, valedictorian of her high school class in 1977, she earned a Bachelor's Degree in Accounting from the University of Alabama in Tuscaloosa, Master's Degree in Accounting from the University of Alabama at Birmingham, became a certified public accountant in 1989, and was a 1997 graduate of Jones Law School in Montgomery; and

WHEREAS, a lady of humble beginnings, Ms. Underwood, who has been with the Revenue Department for 15 years, has made an enormous impression with her appointment in July 1997 as chief of the Alabama Revenue Department's Individual and Corporate Tax Division, overseeing the processing of some 1.7 million personal income tax returns and 190,000 business income tax returns; and

WHEREAS, she possesses such attributes as a warm and delightful sense of humor and a great sensitivity to the needs of

others through her cordial and professional manner and has indeed exemplified the ideals of achievement as a way of life, thereby serving as a worthy role model for others; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Cynthia Underwood for her significant and lasting contributions to the people of the State of Alabama, and further direct that a copy of this resolution be presented to her as evidence of our deep appreciation and warmest personal regard.

Approved March 23, 1998

Time: 8:13 A.M.

Act No. 98-228

H.J.R. 95 – Reps. Sims, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Pringle, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Smith, Spratt, Starkey, Thomas (D),

Thomas (J), Townsend, Turner,
Turnham, Vance, Venable,
Warren, White, Willis and Wren

HOUSE JOINT RESOLUTION

NAMING THE BOBBY CROW MOTORWAY IN CALHOUN COUNTY.

WHEREAS, Former House of Representatives member Bobby Crow served ably the people of Calhoun County from 1978 to 1994; and

WHEREAS, it is appropriate to give formal and permanent recognition to the former four-term legislator from Calhoun County; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Alabama Highway 202 in Calhoun County from Coldwater Pump Road to U.S. Highway 78 be named the Bobby Crow Motorway.

RESOLVED FURTHER, That appropriate authorities are encouraged to place signs and markers designating the route.

Approved March 23, 1998

Time: 8:14 A.M.

Act No. 98-229

H. 88 – Rep. Turnham

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Auburn in Lee County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Auburn in Lee County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 26, TOWNSHIP 19 NORTH, RANGE 25 EAST, AUBURN, LEE COUNTY, ALABAMA, THENCE SOUTH 89°41' WEST, 2545.1 FEET TO A CORNER AND POINT OF BEGINNING OF THE PROPERTY HEREIN TO BE DESCRIBED: FROM THIS STARTING POINT, THENCE CONTINUE SOUTH 89°41' WEST 2229.79 FEET TO A POINT FOR A CORNER; THENCE NORTH 00°18'

WEST, 1489.5 FEET TO A POINT LOCATED ON THE SOUTH MARGIN OF THE CSX (FORMERLY WESTERN RAILROAD OF ALABAMA); THENCE NORTH 81°53' EAST ALONG THE SOUTHERLY MARGIN OF SAID RIGHT-OF-WAY FOR A DISTANCE OF 529.9 FEET; THENCE ALONG A CURVE TO THE LEFT ALONG A CHORD BEARING OF NORTH 74°49' EAST FOR A DISTANCE OF 965.6 FEET TO A POINT FOR A CORNER; THENCE SOUTH 01°28' EAST, 708.9 FEET TO A POINT FOR A CORNER; THENCE SOUTH 89°57' EAST, 806.5 FEET TO A POINT FOR A CORNER; THENCE SOUTH 00°19' EAST, 1095.7 FEET TO THE STARTING POINT.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Auburn is on file in the office of the Judge of Probate in Lee County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved March 25, 1998

Time: 1:45 P.M.

Act No. 98-230

H. 31 – Rep. Gipson

AN ACT

To amend the Title and Section 1 of Act No. 79-488, S. 364 of the 1979 Regular Session, to provide further for local governmental entities to regulate the liquor traffic in conjunction with certain entertainment in Autauga County and to prescribe penalties for violations.

Be It Enacted by the Legislature of Alabama:

Section 1. The Title and Section 1 of Act No. 79-488, S. 364 of the 1979 Regular Session are amended to read as follows:

To further regulate the liquor traffic in Autauga County; to give the municipal governing bodies or the county commission the right and authority to suspend or revoke any license issued for the sale of alcoholic beverages; to make such suspension or revocation subject to review by the State Alcoholic Beverage Control Board; and to authorize local governmental entities in the county to promulgate rules and regulations to regulate the liquor traffic in conjunction with certain entertainment in the county and to suspend or revoke certain licenses of a licensee in violation of such a rule or regulation; and to prescribe penalties for violations.

"Section 1. (a) Each local government entity within Autauga County, whether it be a municipality or the County Commission, shall have the right and authority to suspend or revoke any license issued for the sale of alcoholic beverages which the local governmental entity approved for issuances to any hotel, restaurant, or club for any reason which the local governmental entity may deem sufficient and proper. This power to suspend or revoke such license shall be subject to the review of the State of Alabama Alcoholic Beverage Control Board.

(b) Each local governmental entity in Autauga County, whether it be a municipal governing body or the county commission, may promulgate and implement rules and regulations for controlling the liquor traffic within the jurisdiction of the local governmental entity, by allowing or prohibiting nudity, topless dancing, or any other type of similar live entertainment on the premises of a business which serves or sells alcoholic beverages or allows the public to consume alcoholic beverages on the premises. The rules and regulations shall be adopted by a majority vote of the governing body of the local governmental entity and the action shall be spread upon the minutes of a regular meeting of the governing body. The unincorporated areas of the county shall be subject only to the rules and regulations adopted by the county commission.

"(c) When a local governmental entity deems that a rule or regulation adopted under this section has been violated, it may suspend or revoke the business license of the violator until the violator is deemed by the governmental entity to be in compliance with the rule or regulation. An alleged violation of a rule or regulation shall be afforded due process at a hearing before the governing body of the appropriate local governmental entity before a license is suspended or revoked. The appropriate governing body shall prescribe procedural rules for the hearing. Any appeal of a suspension or revocation of a license under this section shall lie directly to the circuit court of the county.

"(d) If a business continues or attempts to continue to operate after a license of the business has been suspended or revoked under this section or in violation of any rule or regulation of a local governmental entity, the proprietor of the business shall be guilty of a Class C misdemeanor and upon conviction, thereof shall be punished as prescribed by law."

"(e) When a local governmental entity deems that a rule or regulation adopted by the governing body of the entity has been violated, it may commence a civil action in the name of the local governmental entity in the Circuit Court of Autauga County to enjoin the activity which may be in violation of the rule or regulation. In any civil action brought pursuant to this subsection, the circuit court of the county may assess all costs of enjoining the

action, including attorney fees, court costs, and all other expenses of litigation against the proprietor of a business found to be in violation of the rule or regulation.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved March 25, 1998

Time: 1:46 P.M.

Act No. 98-231

H.J.R. 250 – Rep. Carter

HOUSE JOINT RESOLUTION

COMMENDING BOBBY RAY HUDSON AND THE MUSICAL EXPLOSION COMMITTEE FOR OUTSTANDING ACHIEVEMENTS.

WHEREAS, Bobby Ray Hudson and the Musical Explosion have provided 30 years of musical enjoyment to the Athens-Limestone communities and in recognition thereof, they are deserving of highest commendation; and

WHEREAS, one of the leading variety shows in North Alabama, Musical Explosion exemplifies fine family entertainment and has made a lasting impression on countless fans while providing great pleasure to area citizens; and

WHEREAS, possessing a sincere dedication and love for music, the unparalleled success of Bobby Ray Hudson and the Musical Explosion Committee is the result of not only their hard work and leadership, but also their skill and determination to succeed in their efforts; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Bobby Ray Hudson and the Musical Explosion for their outstanding musical achievements, and convey best wishes for continued success in the years ahead.

BE IT FURTHER RESOLVED, That Bobby Ray Hudson receive a copy of this resolution and thanked for the enjoyment and distinct pleasure he has given to so many others through his professional achievements.

Approved March 25, 1998

Time: 1:47 P.M.

Act No. 98-232

H.J.R. 128 – Reps. Layson and Collins

HOUSE JOINT RESOLUTION

DESIGNATING THE ROBERT HUGH KIRKSEY BRIDGE IN PICKENS COUNTY.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the bridge on Highway 86 that crosses the Tombigbee River in Pickens County is hereby designated as the Robert Hugh Kirksey Bridge and that the appropriate officials are requested to post signs designating the Kirksey Bridge as herein provided.

Approved March 25, 1998

Time: 1:48 P.M.

Act No. 98-233

H.J.R. 194 – Rep. Carns

HOUSE JOINT RESOLUTION

CONTINUING THE CAPITAL CREDITS AUTHORIZED BY ARTICLE 7 OF CHAPTER 18, TITLE 40, CODE OF ALABAMA 1975.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That pursuant to Section 40-18-202, Code of Alabama 1975, the capital credits available and authorized by Article 7 of Chapter 18, Title 40, Code of Alabama 1975, are continued from December 31, 1998, until December 31, 2003.

Approved March 25, 1998

Time: 1:49 P.M.

Act No. 98-234

H.J.R. 133 – Rep. Layson

HOUSE JOINT RESOLUTION

DESIGNATING THE MEMORIAL PARKWAY IN ALICEVILLE, ALABAMA.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the east-west

portion of Alabama Highway 17 in Aliceville, Alabama, from the intersection at 9th Street through the city be designated "Memorial Parkway."

RESOLVED FURTHER, That the appropriate officials are requested to post signs designating the Memorial Parkway in Aliceville.

Approved March 25, 1998

Time: 1:50 P.M.

Act No. 98-235

H.J.R. 301 – Reps. Hall (A), Hinshaw,
Sanderford, Jorgensen
and Haney

HOUSE JOINT RESOLUTION

COMMENDING BASKETBALL COACH JERRY DUGAN OF LEE HIGH SCHOOL ON HIS DISTINGUISHED COACHING CAREER.

WHEREAS, Coach Jerry Dugan is widely known and respected not only as a high school basketball coach, but also for the positive impact he has had upon the young students under his tutelage as a coach for 37 years; and

WHEREAS, he has served as head coach, mentor, and friend to the students at Lee High School in Huntsville, Alabama, for the past 31 years, and to the many young athletes who have so greatly benefited from his guidance, and who have carried the effect of his leadership into their every day lives as adults and responsible citizens; and

WHEREAS, we further note that the unparalleled success of the 1967 to 1968 Class 4A State Basketball Championship, the first and last time any coach in the state won back-to-back titles in two separate classifications, is the result of not only the devotion and hard work of the team members themselves, but also the experience, dedication, and leadership provided by Coach Dugan; and

WHEREAS, further, he led the Generals to a 20-7 record, a city championship, reached his spectacular 600th win, and achieved a phenomenal career record of 619-332, and is indeed deserving of highest praise for his outstanding achievements; and

WHEREAS, Coach Jerry Dugan, who was selected to the prestigious Alabama High School Sports Hall of Fame, and for whom the gym at Lee High School was named, is applauded for the fine example that he has established for his students and fellow educators; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievements, we hereby most highly commend Coach Dugan, and further direct that a copy of this resolution be presented to him with sincere best wishes for an enjoyable retirement with his wife, Sharon, and their grandson.

Approved March 25, 1998

Time: 1:51 P.M.

Act No. 98-236

II. 395 – Rep. Baker

AN ACT

Relating to Houston County; abolishing the office of constable.

Be It Enacted by the Legislature of Alabama:

Section 1. In Houston County, effective at the end of the current term of office, the office of constable provided for in each election precinct pursuant to Chapter 23, Title 36, Code of Alabama 1975, is abolished.

Section 2. This act shall become operative only if approved by a majority of the qualified electors of Houston County who vote in an election to be held on the day designated by the Judge of Probate of Houston County. The notice of the election shall be given by the judge of probate, and the election shall be held, conducted, and the results canvassed in the same manner as other county elections. The election shall be held in conjunction with the next regularly scheduled state or local election to be held in the county. The question shall be, "Do you favor the adoption of Act _____, of the 1998 Regular Session of the Alabama Legislature, which abolishes the office of constable in Houston County? Yes () No ()." The county shall pay any costs and expenses not otherwise reimbursed by a governmental agency which are incidental to the election. If a majority of the votes cast in the election are "Yes," this act shall become operative immediately. If the majority of the votes are "No," this act shall be repealed and shall have no further effect. The Judge of Probate of Houston County shall certify the results of the election to the Secretary of State.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor.

Approved March 26, 1998

Time: 9:30 A.M.

Act No. 98-237

S.J.R. 77 – Senators Lindsey, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner and Windom

SENATE JOINT RESOLUTION

REQUESTING THE NAMING OF THE L.B. SULLIVAN PRISON.

WHEREAS, this legislative body notes with highest honor and sincere gratitude the civic and public contributions of Mr. Lester Bruce Sullivan to the State of Alabama; and

WHEREAS, Mr. Sullivan, who was born on March 3, 1921, in Records, Kentucky, and who died on June 1, 1977, served the people of Alabama for over three decades in a notable manner; among his admirable accomplishments was service in the Army Air Corp, Maxwell Air Force Base, as an inspector and chief inspector from 1947 to 1951 with the Alabama Public Service Commission, and as Assistant Housing Director and Executive Director for the Montgomery Housing Authority from 1968 to 1971; and

WHEREAS, Mr. Sullivan was world famous as the Sullivan in the landmark case of New York Times v. Sullivan, in which he cleared his name but learned that a public official does not have the same right to collect damages for defamation as a private citizen; and

WHEREAS, L.B. Sullivan's most noteworthy and enduring contributions were in the field of law enforcement, his highly regarded and respected activities concerning public safety included a distinguished tenure as the Public Safety Director during Governor Gordon Persons' Administration, as a police consultant with the International Association of Chiefs of Police, as Police and Fire Commissioner of the City of Montgomery, as the Commissioner of the State Prison System, and as an Executive Assistant to Attorney General Bill Baxley; each a highly responsible and demanding position in which he unceasingly and without apology labored to defend the safety and welfare of the residents of our state; and

WHEREAS, based upon his significant contributions to numerous law enforcement efforts, this legislative body finds it is appropriate to

recognize in a continuing and enduring fashion the devoted and distinguished service of Mr. L.B. Sullivan to the citizens of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama Department of Corrections is strongly encouraged to take appropriate measures to name the state correctional facility located in Brent, Alabama, the "L.B. Sullivan Prison." A copy of this resolution shall be forwarded to the department so that it may know of our interest and expectations regarding this honorary designation.

BE IT FURTHER RESOLVED, That a copy of this resolution be sent to the family of Mr. Sullivan so that it may know of our esteem and praise.

Approved March 26, 1998

Time: 9:31 A.M.

Act No. 98-238

H.J.R. 241 – Rep. Willis

HOUSE JOINT RESOLUTION

URGING CONGRESS TO PROVIDE FOR A MORE EQUITABLE DISTRIBUTION OF FEDERAL GASOLINE TAX PROCEEDS TO EACH STATE.

WHEREAS, in Alabama, for each \$1.00 of federal gasoline tax proceeds that are distributed to the Federal Treasury, we are reallocated 78 cents for road construction and repair; and

WHEREAS, this inequity of reallocation of funds at the federal level creates a true hardship on Alabama taxpayers in the form of higher state gasoline taxes for road maintenance; and

WHEREAS, due to the rural economic demographics of this state, our citizens must necessarily travel farther to the marketplace and workplace, and as a result incur higher motor fuel costs; and

WHEREAS, if each state were guaranteed \$.91 for each \$1.00 of tax, Alabama would receive \$250,000,000 each year for road repairs; this would be \$125,000,000 for state roads and \$125,000,000 for county roads, or about \$1,500,000 per county, and would create about 6,000 new jobs in our state, which could eventually lead to the reduction of state gasoline taxes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge

the United States Congress to enact legislation providing a more equitable reallocation of federal gasoline tax proceeds in the amount of \$.91 to each state.

RESOLVED FURTHER, That a copy of this resolution be provided to each member of the Alabama Congressional Delegation as an expression of our concerns and expectations concerning this important issue.

Approved March 26, 1998

Time: 3:30 P.M.

Act No. 98-239

H. 470 – Rep. Newton (C)

AN ACT

Relating to Butler County; authorizing the county commission to levy an excise tax on the business of selling, distributing, storing, or withdrawing from storage, for any purpose whatsoever, gasoline or motor fuel and substitutes in the county not to exceed two cents (\$.02) per gallon; providing for the collection and payment of any tax levied and for the distribution of the tax proceeds; authorizing the county commission to make reasonable rules and regulations for the collection and enforcement of the tax levied; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. This act applies to Butler County.

Section 2. For the purposes of this act the following words shall have the following meanings:

- (1) COUNTY COMMISSION. The Butler County Commission.
- (2) COUNTY. Butler County.
- (3) DISTRIBUTOR. Any person who engages in the selling of gasoline or motor fuel in this state by wholesale domestic trade, but shall not apply to any transaction of the distributor in interstate commerce.
- (4) GASOLINE. Gasoline, naphtha, and other liquid motor fuels or any device or substitute commonly used in internal combustion engines. The term shall not be held to apply to aviation fuels or to those products known commercially as "kerosene oil," "fuel oil," or "crude oil" when used for lighting, heating, or industrial purposes.
- (5) MOTOR FUEL. Diesel fuel, tractor fuel, distillate, kerosene, jet fuel or any substitute therefor. The term shall not be held to apply to aviation fuels or to those products commercially

known as "kerosene oil," "fuel oil," or "crude oil," when used for lighting, heating or commercial purposes.

(6) **PERSON.** Persons, corporations, copartnerships, companies, agencies, associations, incorporated or otherwise, singular or plural.

(7) **REFINER.** Any person who manufactures, distills, blends, compounds, or mixes any one or more products in the production of gasoline or motor fuel as defined in this act.

(8) **RETAIL DEALER.** Any person defined in this as a distributor who is also engaged in the selling of gasoline or motor fuel in this state at any place in this state in broken quantities.

(9) **STORER.** Any person who ships, causes to be shipped, or receives in any quantities, stores in any manner and withdraws or uses gasoline or motor fuel for any purpose.

(10) **USER.** Any person who uses or consumes gasoline or motor fuel in this state in any manner or for any purpose. The term "user" shall not include any refiner who has a refinery or refineries located within the State of Alabama when using gasoline or motor fuel in the manufacturing or refining process, or any person who holds a federal permit to blend motor fuels under the federal law and statutes and who pays the federal excise tax on the motor fuels directly to the federal government, when the person uses gasoline or motor fuel in this state in the blending process.

Section 3. (a) The county commission may levy, in addition to all other taxes imposed by law, an excise tax on persons selling, distributing, storing, or withdrawing from storage for any purpose whatever, gasoline or motor fuel within the county at a rate not to exceed two cents (\$.02) per gallon, and require every distributor, retail dealer, or storer of gasoline or motor fuel to pay the excise tax upon the selling, distributing, or withdrawing from storage for any use, gasoline or motor fuel in the county. The excise tax levied pursuant to this act shall not be levied upon the sale of gasoline or motor fuel in interstate commerce. If the excise tax levied pursuant to this act upon the sale of gasoline or motor fuel has been paid by a distributor or by a retail dealer or storer, the payment shall be sufficient, so that the tax shall not be paid but once. The excise tax levied pursuant to this act shall apply to persons, firms, corporations, dealers, or distributors storing gasoline or motor fuel and distributing or allowing the gasoline or motor fuel to be withdrawn from storage, whether the withdrawal is for sale or other use, provided that sellers of gasoline or motor fuel and substitutes paying the tax, may pay the tax computed and paid on the basis of their sales as required, and storers and distributors shall compute

and pay the tax on the basis of their withdrawals or distributions. The tax levied shall be in addition to any and all excise or other taxes imposed on gasoline or motor fuel or any device or substitute, or on the business of selling, distributing, storing, or withdrawing from storage for any purpose, gasoline or motor fuel. The tax shall not be levied by the county commission upon any gasoline or motor fuel when used in governmental functions by the State of Alabama or an agency of the state, county governing agencies, municipalities, and boards of education.

Section 4. On or before the 20th day of each month after this act has become effective, every person upon whom the excise tax is levied shall render to the county commission on forms prescribed by the county commission a true and correct statement of all sales and withdrawals of gasoline and motor fuel made by him or them during the next preceding month, liable for payment of the excise tax imposed pursuant to the provisions of this act, and shall furnish to the county commission such additional information as the county commission may require upon forms to be furnished by the county commission, and at the time of making such report shall pay to the county commission an amount of money equal to the excise tax levied under this act. The statement herein required to be made by the distributor, storer or retail dealer shall be sworn to before some officer authorized to administer oaths, and any false statement sworn to shall constitute perjury and upon conviction thereupon the person so convicted shall be punished as provided by law for the crime of perjury.

Section 5. It shall be the duty of the county commission to enforce the collection of any tax levied under the authority of this act, and it shall have the right, through its officers or its agents to examine the books, reports, and accounts of every distributor, storer, or retail dealer on which the tax has been imposed and to make rules and regulations for the collection of the tax. Provided however, upon resolution of the county commission the State Department of Revenue is hereby authorized and directed to collect all taxes now or hereafter levied by such county under the provisions of this act. All persons, firms, businesses and corporations subject to and owing such taxes shall be and hereby are directed to pay the same over to the Department and such payment shall be a full and complete discharge of all liability therefor to the county. The Department is authorized to promulgate reasonable rules and regulations to facilitate the orderly and efficient collection of said taxes. The Department is authorized to recover all costs of collecting such taxes, not to exceed five percent of the proceeds thereof, from such proceeds and shall pay the net amount remaining thereafter to the county.

Section 6. If any distributor, storer, or retail dealer fails to make monthly reports or fails to pay any tax imposed pursuant to this act, the tax shall be delinquent and there shall be added to the amount of the tax a penalty of 25 percent, and if in the opinion of the county commission a good and sufficient cause or reason is shown for the delinquency, the penalty may be remitted. The county commission may make returns for delinquent taxpayers upon the information reasonably obtained and add the penalty prescribed by this act. If any person shall be delinquent in the payment of any tax imposed pursuant to this act, the county commission shall issue execution for the collection of the tax, directed to the county sheriff, who shall proceed to collect the tax in the manner now provided by law for the collection of delinquent taxes by the county tax collector and make return of the execution to the county commission. The tax and the penalties provided for shall be held as a debt payable to the county by the person against whom the tax shall have been imposed or against whom the penalties shall have accrued, and all taxes and penalties shall be a lien upon the property of the person against whom the tax shall have been imposed and the penalties shall have accrued in the county and anywhere in this state.

Section 7. The acceptance of any amount paid for any excise tax imposed pursuant to this act shall not preclude the collection of the amount actually due. The amount actually paid shall constitute a credit against the amount actually due.

Section 8. Any distributor, storer, or dealer who violates this act, or fails to comply with any rule or regulation promulgated, may be restrained, and proper prosecution instituted in the name of the county by the county attorney or the Attorney General of the State of Alabama, or by such counsel as the county commission appoints, from distributing, selling, storing, or withdrawing from storage any gasoline or motor fuel the sale or withdrawal of which is taxable until there is compliance with this act.

Section 9. The proceeds of any tax imposed under authority of this act shall be paid into the county treasury and shall be used exclusively for payment of the costs incurred in the administration and enforcement of this act and for maintenance and construction of roads and bridges in the county.

Section 10. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of the county who vote thereon at the next general, primary, constitutional, or special election held at the discretion of the county commission for that purpose. The election shall be held and conducted as are elections on constitutional amendments. Notice of the election shall be

given by the judge of probate and shall be published once a week for four successive weeks before the day of the election. On the ballots used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law authorizing the county commission to levy a gasoline and motor fuel tax of up to two cents (\$.02) per gallon? Yes ____ No ____.”

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of the second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect. The judge of probate shall certify the results of the election to the Secretary of State.

Section 11. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on March 27, 1998 without approval by the Governor.

Act No. 98-240

H. 471 – Rep. Newton (C)

AN ACT

Relating to Butler County; authorizing the county commission to levy an additional fee, not to exceed thirty-five dollars (\$35), on each case filed in the Circuit Court, District Court, or any Municipal Court in the county; authorizing the county commission to levy an additional fee, not to exceed five dollars (\$5), for the service of a pleading or other document in connection with any action or case; providing that the additional fees collected be used for the existing county jail or a new county jail; and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to any court costs and fees now or hereafter authorized in Butler County, the Butler County Commission may impose by resolution of the commission an additional fee in an amount not to exceed thirty-five dollars (\$35) to be assessed and taxed as costs on each civil case and on each criminal case, including traffic cases, but excluding small claims cases, filed in the Circuit Court, District Court, or any Municipal Court in Butler County, as

well as an additional fee not to exceed five dollars (\$5) for the service of a pleading or other document in connection with any action or case. These fees shall not be waived by any court unless all other fees, assessments, costs, fines, and charges associated with the case are waived.

Section 2. The additional fees when collected by the clerks or their collection officers of the courts shall be paid into the General Fund of Butler County to be used by the Butler County Commission for the planning, designing, construction, financing, furnishing, equipping, maintenance, and operation of the existing jail or a new county jail. The Butler County Commission may set and adjust by resolution the fees within the limits authorized by this act based on the needs associated with the existing jail or a new county jail.

Section 3. This act shall be inoperative and void unless it is approved by a majority of the qualified electors of the county who vote thereon at the next general, primary, or constitutional election held at the discretion of the county commission for that purpose. The election shall be held and conducted as are elections on constitutional amendments. Notice of the election shall be given by the judge of probate and shall be published once a week for four successive weeks before the day of the election. On the ballots used at the election, the proposition to be voted on shall be stated substantially as follows:

“Do you favor the local law authorizing the county commission to impose additional court costs of up to thirty-five dollars (\$35) per case filed and up to five dollars (\$5) per document served? Yes ____ No ____.”

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of the second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect. The judge of probate shall certify the results of the election to the Secretary of State.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on March 27, 1998 without approval by the Governor.

Act No. 98-241

H. 313 – Rep. Lindsey

AN ACT

Relating to Cleburne County; providing for the assessment of additional court costs in all circuit and district court cases; and providing for the distribution of the proceeds.

Be It Enacted by the Legislature of Alabama:

Section 1. In addition to all other costs and charges in circuit and district court cases in Cleburne County, an additional court cost of ten dollars (\$10) shall be charged and collected by the clerk of the court except small claims cases. When collected by the clerk of the court, the additional court costs shall be remitted monthly to the Cleburne County General Fund.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on March 27, 1998 without approval by the Governor.

Act No. 98-242

H. 314 – Rep. Lindsey

AN ACT

Relating to Cleburne County; levying a tax on those persons, firms, and corporations severing and transporting sand, clay, silt, loam, dirt, gravel, rock, sand-gravel, clay-gravel, sand-clay, or any combination thereof in the county; providing for the collection of the tax by the Department of Revenue; and providing for enforcement and distribution of the proceeds of the tax.

Be It Enacted by the Legislature of Alabama:

Section 1. When used in this act, the following words and phrases shall have the following meanings:

(1) DEPARTMENT. The State Department of Revenue.

(2) EARTHEN MATERIALS. Materials covered in this act which include sand, clay, silt, loam, dirt, gravel, rock, sand-gravel, clay-gravel, sand-clay or any combination thereof.

(3) PERSON. Any individual, firm, partnership, corporation, association, or any combination thereof.

(4) PRODUCER. Any person engaging in the business of severing sand, clay, silt, loam, dirt, gravel, rock, sand-gravel, clay-gravel,

sand-clay, or any combination thereof from the soil within Cleburne County.

(5) **PURCHASER.** Any person acquiring title, outright or conditionally, to any interest in sand, clay, silt, loam, dirt, gravel, rock, sand-gravel, clay-gravel, sand-clay or any combination thereof.

(6) **SEVERING.** Mining, stripping, or otherwise taking or removing sand, clay, silt, loam, dirt, gravel, rock, sand-gravel, clay-gravel, sand-clay or any combination thereof from the soil within Cleburne County.

(7) **TON.** A short ton of 2,000 pounds.

(8) **TRANSPORTER.** Any person transporting sand, clay, silt, loam, dirt, gravel, rock, sand-gravel, clay-gravel, sand-clay or any combination thereof from the place where it is severed or from any other place to any other place, within or without Cleburne County.

Section 2. There is levied, in addition to all other taxes imposed by law, an excise and privilege tax on every person severing earthen materials within Cleburne County. The tax shall be paid to the Department of Revenue at the rate of twenty-five cents (\$.25) per ton by every producer who severs such product within Cleburne County and that transports over county roads, there is also levied, in addition to all other taxes imposed by law, a privilege tax on every transporter using the county roads in the amount of (\$.25) per ton per mile on each county road..

Section 3. Every producer shall within 20 days after the end of each calendar month, whether or not the producer shall have severed or sold any earthen materials during that month, file with the Department of Revenue a report which shall set forth, in a form prescribed by the department, the amount of said products in tons, if any, severed or sold, as the case may be, by the producer during the next preceding calendar month, the point of severance thereof, the amount of taxes due, and any other information as the department may reasonably require for the proper enforcement of this act. The producer shall accompany the report with payment of the full amount of the taxes shown to be due. The report shall be signed by the producer himself in the case of an individual producer or by a member, officer or manager of the producer in other cases.

Section 4. Purchaser and transporters of such product severed in Cleburne County shall file a report with the Department of Revenue, on forms prescribed by the department, within 20 days after the end of each calendar month in which the purchaser or transporter purchased or transported earthen material severed in Cleburne County. The report shall state the names and addresses of all producers in Cleburne County from whom the purchaser or

transporter has received the earthen material during the calendar month, the total quantity of earthen material so acquired, and, in the case of a transporter, to whom and where each ton of earthen material was delivered, and any other information as the commissioner may reasonably require for the proper enforcement of this act, including the routes traveled in transporting the gravel and the amounts of any privilege tax on the transportation. The report shall be signed by the purchaser or transporter himself or herself in the case of an individual purchaser or transporter, or by a member, officer, or manager of the purchaser or transporter in all other cases.

Section 5. The taxes imposed by this act shall constitute a debt due Cleburne County and may be collected by civil suit, in addition to all other methods provided by law. The taxes, together with interest thereon, shall constitute and be secured by a lien upon the property of any person from whom the taxes are due. All provisions of the revenue law of this state which apply to the enforcement of liens for taxes due the state shall apply fully to the collection of the county taxes levied herein, and the State Department of Revenue for the use and benefit of Cleburne County shall collect the taxes and enforce this act and shall have and exercise for the collection and enforcement all rights and remedies that this state or department has for collection of the state stone severance tax. The State Department of Revenue shall have full authority to employ special counsel as it deems necessary to enforce collection of the taxes levied by this act, and to otherwise enforce the provisions of this act, including any litigation involving this act, and the Department of Revenue shall pay the special counsel's fee, as it deems necessary and proper from the proceeds of the taxes collected by it for Cleburne County.

Section 6. The State Department of Revenue shall charge Cleburne County for collecting the county taxes levied herein, an amount or percentage of total collections not to exceed five percent of the total amount of taxes collected hereunder. The charge for collecting the taxes for the county may be deducted each month from the proceeds of the taxes before certifying the amount thereof due Cleburne County for that month.

Section 7. The proceeds from taxes levied by this act shall be deposited in a separate account to be used for the maintenance, restoration and replacement of County bridges and roads.

Section 8. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on March 27, 1998 without approval by the Governor.

Act No. 98-243

S. 12 – Senator Ghee

AN ACT

To amend Sections 2-5-1, 2-5-2, 2-5-14, and 2-5-16, Code of Alabama 1975, to provide further for the procedural authority of the Farmers' Market Authority relative to the lease, disposal, and sale of real property of the department; provide further for the members of the authority; to authorize the issuing, selling, and refunding of revenue bonds; to provide certain tax exemptions, to establish a debt service reserve fund; and provide further for the duties and funds of the authority.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 2-5-1, 2-5-2, 2-5-14, and 2-5-16, Code of Alabama 1975, are amended to read as follows:

“§2-5-1.

“(a) There is established in the state of Alabama a farmers' market authority with powers and duties to establish agricultural markets to prevent waste and to provide marketing facilities where farm products, including fruits, vegetables, nuts, truck crops, and other agricultural commodities may be processed, graded, packaged, displayed, or exhibited in order to encourage the buying and selling of the commodities, and to encourage the public interest, thus promoting good will between the rural and urban sectors of the State of Alabama. The authority may procure by purchase, lease, rent, gift, or otherwise, necessary market sites in this state on which to conduct farmers' markets.

“(b) Notwithstanding Article 3 of Chapter 15 of Title 9, the farmers' market authority, upon the approval of the governor, may grant, bargain, sell, and convey all its right, title, and interest in any market which it has established and any facility installed in any market or in connection with any market upon terms and conditions as it deems expedient. The authority, however, shall not execute a deed of conveyance to any market and market facilities, including the land on which it is located, until it has received payment in full of an amount sufficient to reimburse it for the expenses incurred in acquiring the land, erecting any buildings thereon, and installing any facilities. No deed of conveyance shall be executed until the grantee agrees to continue to operate the market for the benefit of agricultural producers in the area then being served by the market, as long as this need continues to exist, pursuant to rules and regulations of operation as are prescribed by the farmers' market authority and stipulated in the contract and deed of sale.

“(c) In the event a market is no longer needed to serve the agricultural community as stipulated by the Farmers' Market Authority, the authority, as a means to recoup to the extent possible all moneys

expended by the authority in establishing the market, shall obtain a certified appraisal of the market, advertise for four weeks that the market will be sold at public auction or sealed bid on a certain date, and sell the market at public auction or sealed bid with the authority reserving the right to accept or reject any or all bids, and no sale shall be executed without the approval of the Governor.

“(d) No sale shall be made by the Farmers’ Market Authority without a complete and full recitation of the facts and reasons for the sale being spread on the minutes of the authority and in a certificate signed by the chair certifying to the Governor that the stated facts and reasons are true to the best of his or her knowledge and belief.

“§2-5-2.

“The farmers’ market authority shall consist of the commissioner of agriculture and industries by virtue of his or her office and eight members, at least one from each congressional district, appointed by the governor. Persons selected for membership on the farmers’ market authority shall be directly connected with agriculture by virtue of devoting a majority of their business activity to the production, processing, or distribution of agricultural products. The members shall be appointed by the governor of Alabama and confirmed by the state senate. In the initial appointment, two members shall serve a six-year term, three members a four-year term, and three members a two-year term, and thereafter each member shall serve a six-year term. The members of the authority shall elect a chair and vice-chair from among their own number.

“§2-5-14.

“All funds collected under this chapter shall be deposited in the state treasury to the credit of a special fund for the use of the farmers’ market authority and shall be used solely for maintenance, repairs, and capital outlay for markets and market facilities, for payment of other expenses of operations as approved by the authority, and for liquidation of costs of construction of the markets and facilities. The funds shall be paid out on warrants drawn by the state comptroller on the state treasury, upon the authorization of the administrator of the farmers’ market authority.

“§2-5-16.

“To assure the liquidation of the costs incurred in the installation of facilities at farmers’ markets, notwithstanding Article 3 of Chapter 15 of Title 9 (commencing with Section 9-15-70), the farmers’ market authority is hereby authorized to enter into contracts, whereby persons who desire space or facilities at the markets may lease the facilities or space as necessary for their operation for a

term not exceeding 30 years. The contract or lease, or both, shall contain provisions for the termination of the contract or lease, or both, upon the breach of the conditions therein or upon the failure to comply with the rules and regulations promulgated by the authority. The venue of any action resulting from the termination of such a lease or contract, or both, shall be either in Montgomery County or the county in which the market is located. If there be any default by the municipality, county, state, or any public corporation or state agency in the payment of any installment of rent or the performance of any agreement required to be made or performed under the provisions of any lease agreement, the corporation and the trustee, or either of them, under any indenture shall have and may exercise any one or more of the following remedies:

“(1) By mandamus, injunction, or other proceedings, compel performance by the officials of such lessee of their duties respecting payment of the rentals required to be paid and the performance of the agreements on the part of such lessee required to be performed under any such lease agreement.

“(2) A judgment against such lessee for all monetary payments required to be made by such lessee under the provisions of such lease agreement with respect to which the lessee is then in default.

“(3) Terminate the lease and take possession of the project or part thereof leased to such lessee.

“(4) Exercise any other remedy provided for in the lease.”

Section 2. Definitions. Whenever used in Sections 2 to 11, inclusive, of this act, the following terms shall have the following meanings respectively, unless the context clearly indicates otherwise:

(1) **BONDS.** Those bonds, including the refunding bonds, issued under and pursuant to the provisions of Sections 3 to 12, inclusive, of this act.

(2) **GOVERNMENT SECURITIES.** Any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof, which may consist of the principal thereof or the interest thereon.

(3) **PERMITTED INVESTMENTS.** (i) Government securities; (ii) bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank;

Federal Home Loan Banks; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks; or Farmers Home Administration or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof; (iii) bonds, notes, pass through securities or other evidences of indebtedness of Government National Mortgage Association and participation certificates of Federal Home Loan Mortgage Corporation; (iv) full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service; (v) public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; (vi) time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation, provided that, to the extent such time deposits are not covered by federal deposit insurance, such time deposits, including interest thereon, are fully secured by a pledge of obligations described in clauses (i), (ii), (iii), and (v) above, which at all times have a market value not less than the amount of such bank time deposits required to be so secured and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; (vii) repurchase agreements for obligations of the type specified in clauses (i), (ii), (iii), and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value at least equal to the purchase price of such repurchase agreements which are held by a depository satisfactory to the State Treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; and (viii) uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

(4) **REFUNDING BONDS.** Those refunding bonds issued under and pursuant to Section 8 of this act.

Section 3. Authorization to Issue Bonds. The Farmers' Market Authority shall, in addition to all other powers previously conferred

upon it, have the power to issue and sell its bonds in the aggregate principal amount not to exceed ten million dollars (\$10,000,000) for the purpose of acquiring, constructing, enlarging, improving, renovating, equipping and maintaining farmers' market facilities which the authority has the power to establish pursuant to Section 2-5-1, Code of Alabama 1975. The bonds shall be in such form or forms and denomination or denominations and of such tenor and maturities, shall bear such rate or rates of interest payable and evidenced in such manner, shall be made subject to redemption prior to their maturities, and shall contain provisions not inconsistent with Sections 3 to 12, inclusive, of this act, all as may be provided by the resolution under which the bonds may be issued; provided, that those bonds having maturities more than 10 years after their date shall be subject to redemption at the option of the authority on any interest payment date on and after the tenth anniversary after their date at such redemption price and under such conditions as may be prescribed in the proceedings of the authority under which they are issued.

Section 4. Execution and Other Details of the Bonds. The bonds shall be signed by the chair or vice chair of the authority, and the seal of the authority shall be affixed thereto, or a facsimile thereof imprinted thereon, and attested by its secretary. All signatures of the chair, vice chair and secretary may be facsimile signatures if the proceedings under which the bonds are issued provide for the manual authentication of such bonds by a trustee or paying agent or by named individuals who are employees of the State of Alabama and who are assigned to the Department of Finance or Office of the State Treasurer. The seal of the authority shall be impressed on the bonds and a facsimile of such seal may be printed or otherwise reproduced on any of the bonds in lieu of being manually impressed thereon. Delivery of bonds so executed shall be valid notwithstanding any changes in officers subsequent to the signing of such bonds. For the purpose of paying the principal of, premium, if any, and interest on the bonds, the authority shall designate the State Treasurer. Funds for the payment of debt service shall be transferred by the authority to the State Treasurer on the actual due date of such principal, premium, if any, or interest.

Section 5. Sale of the Bonds. The bonds may be sold by the authority from time to time in series. Each series of the bonds shall be sold at competitive bid and at such price or prices and at such time or times as the authority may consider advantageous. Bonds sold by competitive bid shall be sold, whether on sealed bids or at public auction, to the bidder whose bid reflects the lowest effective borrowing cost to the authority on the series of bonds being sold; provided, that if no bid acceptable to the authority is received, it may reject all bids. Summary notice of each such sale shall be given by publication in either a financial journal or a financial newspaper

published in the City of New York, New York, and also by publication in a newspaper published in the State of Alabama which is customarily published not less often than five days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the date fixed for the sale or, in the event no bid acceptable to the authority is received at any such sale and the bonds so offered are thereafter reoffered on the same terms and conditions, not less than five days prior to the date fixed for sale. The authority may fix the terms and conditions under which the sale of any series of the bonds may be held. Neither a public hearing nor consent of the State Department of Finance or any other department or agency shall be a prerequisite to the issuance of any of the bonds.

Section 6. Security for the Bonds. The bonds shall not be general obligations of the authority but shall be limited obligations payable solely from one or more specified sources, including, but not limited to, revenues derived from market charges, authorized under Section 2-5-8, Code of Alabama 1975, lease revenues, authorized under Section 2-5-16, Code of Alabama 1975, and appropriations made under Section 2-5-17, Code of Alabama 1975. The authority shall be authorized to pledge all or any portion of such revenues as security for the payment of the bonds. All such pledges made by the authority shall take precedence in the order of the adoption of the resolutions containing the pledges. The authority is further authorized to obtain credit enhancement for its bonds, including, but not limited to, bond insurance and letters of credit, and to pledge all or a portion of its revenues as security for its reimbursement obligations with respect thereto. All bonds issued by the authority pursuant to the provisions hereof shall be solely and exclusively obligations of the authority and shall not be an obligation or debt of the State of Alabama, any county or any municipality within the State of Alabama.

Section 7. Refunding Bonds. (a) Any bonds issued by the authority pursuant to Sections 3 to 12, inclusive, of this act may from time to time thereafter be refunded by the issuance of refunding bonds of the authority; provided, however, that no refunding bonds shall be issued unless the present value of all debt service on the refunding bonds, computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and issuance expenses, shall not be greater than 97 percent of the present value of all debt service on the bonds to be refunded, computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds, determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities, considering mandatory redemption as a scheduled maturity, provided at the time of their issuance. Such refunding bonds may be sold and issued from time to time, at either public or

private sale, and on such other terms and conditions as the authority shall determine to be advantageous and shall adopt and provide for in its proceedings for the sale and issuance of such refunding bonds. Any such refunding bonds may be issued whether the bonds to be refunded shall have then matured or shall thereafter mature, and such refunding may be effected either by sale of the refunding bonds and the application of the proceeds thereof to the payment or redemption of the bonds so refunded or by exchange of the refunding bonds for those to be refunded thereby.

(b) The proceeds derived from any sale of refunding bonds remaining after payment of the expenses of their issuance shall be applied in accordance with the proceedings of the authority under which such refunding bonds are issued. Pending the application of said proceeds to the purchase, redemption or payment of such outstanding bonds, such proceeds may be invested in permitted investments pursuant to a trust agreement providing for the future application of such proceeds to the purchase, redemption or payment of such outstanding bonds. Bonds refunded prior to their maturity with the proceeds of refunding bonds shall be deemed not outstanding if the authority, in the proceedings under which such refunding bonds are issued, establishes a trust fund consisting of cash or government securities, or both, sufficient to pay in accordance with the provisions of such trust fund when due, the entire principal of and interest and premium, if any, on the bonds to be refunded; provided that such government securities shall not be subject to redemption prior to their maturities other than at the option of the holder thereof.

Section 8. Establishment of Debt Service Reserve Fund. A debt service reserve fund is authorized to be established and maintained in such an amount and under such conditions for any or all series of the bonds as may be determined by the authority in its resolution relating to the bonds. The authority is authorized to make payments from bond proceeds or any other funds or revenues available to it into the debt service reserve fund. Income earned from the investment of monies held in the debt service reserve fund may be used by the authority for any purpose designated by the authority that would constitute a permitted use of funds of the authority under this act. Monies on deposit in the debt service reserve fund shall be invested only in permitted investments and the authority is authorized to determine the conditions for the utilization of the debt service reserve fund in its resolution relating to the bonds secured thereby, and by the terms of such resolution, to dedicate and pledge such fund and the investment earnings therefrom to payment of debt service on the bonds.

Section 9. Investment of Proceeds from Bond Sale. Prior to the completion of farmers' market facilities to be financed with

proceeds of bonds, any portion of the principal proceeds derived from the sale of the bonds which the authority may determine is not then needed for any of the purposes for which the bonds are authorized to be issued shall be invested by the State Treasurer in permitted investments which mature at such time or times as the authority shall direct. At any time, and from time to time on order of the authority, any such investments may be sold or otherwise converted by the State Treasurer into cash.

Section 10. Property of Authority Exempt from Taxation. The authority, its property and income and all obligations issued by the authority, the income from such obligations or from the investment of such income and all conveyances, leases, mortgages and deeds of trust by or to the authority shall be exempt from all taxation in the State of Alabama.

Section 11. Maintain Federal Tax-Exempt Status. The authority has the power and hereby delegates power to the Commissioner of Agriculture and Industries to cause appropriate reports to be prepared and payments submitted to the United States of America as shall be deemed necessary to cause the interest on any bonds of the authority to be and remain exempt from federal income taxation. The authority shall have the power to make agreements respecting the investment of funds of the authority necessary in order that the interest income on bonds of the authority be and remain exempt from federal income taxation.

Section 12. Severability. The provisions of this act are severable. If any section, paragraph, sentence, clause, provision or other portion of the act herein may be held unconstitutional or invalid, such holding shall not affect any other section, paragraph, sentence, clause, provision, or a portion of this act.

Section 13. Effective Date. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 1, 1998

Time: 8:00 A.M.

Act No. 98-244

S. 416 – Senator Roberts

AN ACT

To amend Section 5-6A-1, Code of Alabama 1975, relating to the requirements for directors of state-chartered banks, to allow a minority of directors to be non-United States citizens, to remove the minimum par value for shares which directors are required to hold, and to remove the requirement that 75 percent of the directors must be residents of Alabama or a contiguous state.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5-6A-1, Code of Alabama 1975, is amended to read as follows:

“§5-6A-1.

“Not less than 75 percent of the directors of a bank shall, during their whole term of service, be citizens of the United States. Every director of a bank shall be the owner and holder of shares of stock in the bank or parent bank holding company. Every director shall hold such shares in his or her own name, unpledged and unencumbered in any way except statutory lien which might attach in favor of such corporation. No person convicted of a felony or a crime involving moral turpitude shall serve as a director. At least 51 percent of the directors of every bank shall be residents of the state. Any director at any time violating any of the provisions of this section shall be removed from office by the board of directors or by the superintendent when the facts are made known to the superintendent.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 1, 1998

Time: 8:01 A.M.

Act No. 98-245

H. 317 – Reps. Clark (J), Hammett,
Fuller, Knight (J) and
Newton (C)

AN ACT

To amend those provisions of Act No. 90-602 enacted at the 1990 Regular Session of the Legislature of Alabama, codified as Sections 41-10-450, 41-10-451, 41-10-456, 41-10-458, 41-10-459, 41-10-461, 41-10-468, 41-10-472, and 41-10-474, Code of Alabama 1975, to expand the authority of the Alabama Building Renovation Finance Authority to include building construction, additions, renovation and demolition and to specifically authorize financing of the construction of a west wing on the Alabama Memorial Building, commonly known as the Archives Building; to further specify the amount and conditions under which refunding bonds of the authority may be issued; to specify a date after which the Authority may sell its bonds; to allow the authority to determine the basis of sale of its bonds in order to effect the lowest borrowing cost; to allow for publication of a summary notice of sale of bonds of the authority.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. The following terms, whenever used in this act, shall have the following respective meanings unless the context clearly indicates otherwise:

(1) "Authority" means Alabama Building Renovation Finance Authority established pursuant to the 1990 Act.

(2) "Bonds" (except where that word is used with reference to bonds issued under another act) means those bonds authorized to be issued pursuant to the authorization contained in this act.

(3) "1990 Act" means Act No. 90-602 enacted at the 1990 Regular Session of the Legislature of Alabama, codified as Article 14 of Chapter 10 of Title 41, Code of Alabama 1975.

Section 2. Section 1 of the 1990 Act, codified as Section 41-10-450, Code of Alabama 1975, is amended to read as follows:

"§41-10-450.

"It is the intent of the legislature by the passage of this article to authorize the incorporation of the governor, the director of finance, and the state treasurer as a public corporation for the sole purpose of constructing, renovating, reconstructing, improving, altering, adding to, demolishing, equipping, operating and maintaining or contracting for the constructing, renovation, reconstruction, improvement, alteration, addition, demolition, equipment, operation and maintenance of public office buildings (including the state capitol) and to vest such corporation with all powers, authority, rights, privileges, and titles that may be necessary to enable it to accomplish such purpose. This article shall be liberally construed in conformity with the purpose expressed."

Section 3. Section 2 of the 1990 Act, codified as Section 41-10-451, Code of Alabama 1975, is amended to read as follows:

"§41-10-451.

"(1) **AUTHORITY.** The public corporation organized pursuant to the provisions of this article.

"(2) **BONDS.** Those bonds, including refunding bonds, authorized to be issued by the Authority Pursuant to act of the legislature.

"(3) **GOVERNMENT SECURITIES.** Any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

"(4) **PERMITTED INVESTMENTS.** (i) Government securities;

issued by any of the following agencies: bank for cooperatives; federal intermediate credit banks; federal financing bank; federal home loan banks; federal farm credit bank; export-import bank of the United States; federal land banks, or farmers home administration or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the congress of the United States as an agency or instrumentality thereof; (iii) bonds, notes, pass through securities or other evidences of indebtedness of government national mortgage association and participation certificates of federal home loan mortgage corporation; (iv) full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service; (v) public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America; (vi) time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the federal deposit insurance corporation, provided that, to the extent such time deposits exceed available federal deposit insurance, such time deposits are fully secured by obligations described in clauses (i), (ii), (iii), and (v) above, which at all times have a market value (exclusive of accrued interest) at least equal to such bank time deposits so secured, including interest and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings, (vii) repurchase agreements for obligations of the type specified in clauses (i), (ii), (iii), and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the purchase price of such repurchase agreements and which are held by a depository satisfactory to the state treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Corporation for structured financings; and (viii) uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Corporation and at least "Aa" by Moody's Investors Service.

"(5) REFUNDING BONDS. Those bonds authorized to be issued by the authority pursuant to act of the legislature for the

purpose of refunding or paying bonds of the Authority and purposes ancillary thereto.

“(6) STATE. The state of Alabama.

“(7) Pronouns when used in this article shall include all applicable genders.”

Section 4. Section 7 of the 1990 Act, codified as Section 41-10-456, Code of Alabama 1975, is amended to read as follows:

“§41-10-456.

“The authority shall have the following powers among others specified in this article: (1) to have succession by its corporate name until dissolved as provided in this article; (2) to sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties thereto; (3) to have and to use a corporate seal and to alter the same at pleasure; (4) to make and alter all needful bylaws, rules and regulations for the transaction of the authority’s business and the control of its property and affairs; (5) to establish a fiscal year; (6) to provide for the construction, renovation, reconstruction, improvement, alteration, addition, demolition, equipment, operation and maintenance of public office building facilities, (including the state capitol), and for the procurement of sites and equipment for such facilities; (7) to receive, take and hold by sale, gift, lease, devise or otherwise, real and personal property of every description, and to manage the same; (8) to acquire by purchase, gift, or any other lawful means, and to transfer, convey or cause to be conveyed to the state, any real, personal or mixed property; (9) to borrow money and issue its bonds in evidence thereof subject to the provisions of this article; (10) to anticipate by the issuance of its bonds as hereinafter limited the receipt of the revenues from such public office buildings; (11) as security for the payment of the principal of and interest on its bonds, to enter into any lawful covenant and to pledge the revenues from such public office buildings; (12) to invest as hereinafter provided the proceeds from the sale of its bonds pending need therefor; (13) to make and enter into such contracts, leases, agreements and other actions as may be necessary or desirable to accomplish any corporate purpose and to exercise any power necessary for the accomplishment of the purposes of the authority or incidental to the powers expressly set out herein; (14) to appoint and employ such attorneys, agents, advisors, independent contractors, and employees as may, in the judgment of the board of directors, be necessary or desirable; and (15) to contract, lease and make lease arrangements as hereinafter provided for the use and occupation of all or any part of the public office buildings renovated, reconstructed, altered, added to, maintained or improved by it, other than the state capitol.”

Section 5. Section 9 of the 1990 Act, codified as Section 41-10-458, Code of Alabama 1975, is amended to read as follows:

“§41-10-458.

“The authority is hereby authorized from time to time to sell and issue its bonds, not exceeding \$29,500,000.00, exclusive of refunding bonds, in aggregate principal amount, and in such additional aggregate principal amounts as shall be authorized by act of the Legislature, for the purpose of providing funds for the construction, renovation, reconstruction, improvement, addition to, demolition, and alteration of public office building facilities, including the state capitol, for the procurement of equipment therefor, and for payment of obligations incurred for any of said purposes.”

Section 6. Section 10 of the 1990 Act, codified as Section 41-10-459, Code of Alabama 1975, is amended to read as follows:

“§41-10-459.

“The authority may from time to time sell and issue its refunding bonds for the purpose of refunding any matured or unmatured bonds of the authority at the time outstanding, paying the expenses of issuance thereof and paying any premiums necessary to be paid to redeem any bonds so to be refunded; provided, however, that no refunding bonds (other than refunding bonds issued to refund those bonds of the Authority designated Building Renovation Revenue Bonds, Series 1990, originally issued in the aggregate principal amount of \$29,500,000) shall be issued unless the present value of all debt service on the refunding bonds (computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than 95 percent of the present value of all debt service on the bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds) determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities (considering mandatory redemption as a scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of the refunding bonds, as measured from the date of issuance of such refunding bonds (other than refunding bonds issued to refund those bonds of the Authority designated Building Renovation Revenue Bonds, Series 1990, originally issued in the aggregate principal amount of \$29,500,000), shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal

of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined. All refunding bonds shall be subrogated to the bonds which are refunded thereby."

Section 7. Section 12 of the 1990 Act, codified as Section 41-10-461, Code of Alabama 1975, is amended to read as follows:

"§41-10-461.

"Bonds may be sold by the authority from time to time in series, and if sold in more than one series may all be authorized in one initial resolution of the board of directors with the pledges therefor made in such initial resolution although some of the details applicable to each series may be specified in the respective resolutions under which the different series are issued; provided, however, that no bonds of the Authority that are authorized under this amendatory act shall be sold or counsel hired prior to February 1, 1999. Each series of the bonds may be sold at public or private sale, as determined by the authority, at such price or prices as the authority shall determine, and, if sold at public sale either on sealed bids or at public auction, on a basis determined by the authority to enable it to effect the sale of the bonds being sold at the lowest effective borrowing cost to the authority; provided, that if in the event of public sale of the bonds no bid acceptable to the authority is received it may reject all bids. Notice of each public sale or summary notice of sale or both shall be given by publication in either a financial journal or a financial newspaper published in the city of New York, New York, and also by publication in a newspaper published in the state which is customarily published not less than five days during each calendar week, each of which notices must be published at least one time not less than 10 days prior to the date fixed for the sale. The board of directors may fix the terms and conditions under which each such sale may be held; provided, that such terms and conditions shall not conflict with any of the requirements of this article. Approval by the governor of the terms and conditions under which any of the bonds may be issued shall be requisite to their validity, which approval signed by the governor shall be entered on the minutes of the respective meetings of the board of directors at which the series of the bonds proposed to be issued are authorized or sold."

Section 8. Section 19 of the 1990 Act, codified as Section 41-10-468, Code of Alabama 1975, is amended to read as follows:

"§41-10-468.

"All proceeds derived from the sale of any bonds (except refunding bonds) sold by the authority remaining after payment of the expenses of issuance thereof and the funding of any required reserve or replacement fund shall be turned over to the state treasurer, shall be carried by the state treasurer in a special account to the credit of the authority, and shall be subject to be drawn on by the authority solely for the purposes of constructing, renovating, reconstructing, improving, altering, adding to, demolishing, and equipping one or more public office buildings, (including the state capitol), and all reasonable and necessary expenses incidental thereto, including interest which shall accrue on said bonds during the construction, renovation, reconstruction, improvement, alteration, addition, demolition, and equipping of said buildings and for a period not exceeding one year thereafter. The authority is specifically authorized and empowered to expend bond proceeds to pay a portion of the cost of renovation and equipping of the state capitol even though the said state capitol shall not be owned by the authority. Any balance of said proceeds thereafter remaining shall, upon completion of construction, renovation, reconstruction, improvement, alteration, addition, demolition and equipping of the building or buildings for which the bonds were issued and the payment of all costs in connection therewith, be transferred to the reserve fund account of the authority or used to redeem bonds issued by the authority as may be determined by the board of directors of the authority."

Section 9. Section 23 of the 1990 Act, codified as Section 41-10-472, Code of Alabama 1975, is amended to read as follows:

"§41-10-472.

"In the proceedings authorizing the issuance of any of its bonds, the authority is authorized and empowered to pledge for the payment of the principal of and interest on such bonds at the respective maturities of said principal and interest, and to agree to use solely for such purpose, all the revenues which under the provisions of section 41-10-471 are provided for the payment of the said principal and interest, subject to prior pledges thereof as and to the extent the Authority may provide. In said proceedings the authority may further provide and create, as security for the payment of said principal and interest, a statutory lien upon the buildings and properties, other than the state capitol, for the acquisition and construction or renovation of which the bonds are issued. Such statutory lien shall not be subject to foreclosure and, in the event of default in the payment of any such principal or interest, the remedies thereunder shall be limited to a remedy by way of mandamus and to the appointment, as a matter of right, by any court having equity powers and having jurisdiction over the authority, of a receiver in equity with all the powers of such a receiver, except the power to sell the said buildings

and properties. Upon the issuance of any bonds pursuant to this article the authority may file in the office of the judge of probate of Montgomery county, Alabama, an instrument reciting the issuance of such bonds and the pledge of said revenues and the creation of said statutory lien, if any, as security therefor, and the filing of such instrument shall constitute constructive notice of said pledge and lien, if any. Such instrument shall be received and recorded by said judge of probate upon the payment of the fee for the recording of mortgages but no tax shall be payable with respect thereto."

Section 10. Section 25 of the 1990 Act, codified as Section 41-10-474, Code of Alabama 1975, is amended to read as follows:

"§41-10-474.

"The authority and the executive head of any agency, board, commission, public corporation, bureau or department of the state of Alabama, or the successor in office and duties of such executive head, are hereby authorized to enter into a lease or leases for the use and occupancy of offices and storage space in the public office buildings or buildings constructed, renovated, reconstructed, improved, altered, added to or equipped and owned by the authority under the provisions of this article. Such executive heads are hereby separately authorized to enter into lease agreements for the use and occupancy of any space in the said buildings. The authority and the director of finance on behalf of the finance department are hereby authorized to enter into a lease or leases for the use and occupancy of any or all of said buildings. In such event, the finance department may sublease space in said buildings upon such terms and conditions as may be determined by the director of finance. Upon a determination by the authority that a lessee has failed or refused to pay the lease payment charged to it under its lease agreement with the authority and that said lease payments are at least ninety days in arrears, the authority may request that the director of finance direct the state comptroller to issue a state warrant to the authority in the amount of the delinquent lease payments. If the director of finance finds that the lessee has funds appropriated, budgeted and allotted for such payments, he may direct the state comptroller to issue a state warrant to the authority in the amount owed. The state comptroller is authorized to pay to the authority the amount of the delinquent lease payments that he finds to be appropriated, budgeted and allotted for that purpose if sufficient funds are then available in the fund from which such payments are to be made."

Section 11. In addition to those bonds authorized to be issued by the Authority pursuant to the 1990 Act, the Authority is hereby authorized to sell and issue its Bonds in the aggregate principal amount of twelve million dollars (\$12,000,000) for the purpose of constructing and equipping a new west wing for the Alabama Memorial

Building, commonly known as the Archives Building, for lease by the Authority pursuant to the 1990 Act, paying the costs of such renovation and reconstruction of the existing said building as shall be necessary or convenient in connection with the construction and equipment of said wing, and paying the costs of issuance of the Bonds. The Bonds shall be solely and exclusively obligations of the Authority, shall not create an obligation or debt of the State of Alabama, shall have the qualities and incidents of negotiable instruments subject to registration provisions pertaining to transfers and shall be secured, approved, executed, sealed, attested, sold and delivered as and in the manner provided in the 1990 Act for the bonds described therein, with such changes in detail as shall be necessary in connection with the Bonds. Income from the Bonds shall be forever exempt from any and all taxation in the State of Alabama. The proceeds of the Bonds shall be temporarily invested prior to use for the purpose hereinabove provided, as provided for in the 1990 Act in respect of the proceeds of bonds as described therein. In respect of the Bonds, the Authority shall have all powers necessary to make such payments to the United States of America as the Authority deems necessary to cause the interest on any bonds of the Authority to be and remain exempt from federal income taxation. The Authority shall have the power to make agreements respecting the investment of funds of the Authority necessary in order that the interest income on the Bonds shall be and remain exempt from federal income taxation.

Section 12. All laws or parts of laws which conflict with this act are repealed.

Section 13. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 14. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 1, 1998

Time: 8:03 A.M.

Act No. 98-246

H.J.R. 142 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. FLOYD LOWE OF MOBILE, ALABAMA, ON THE OCCASION OF THEIR 54TH WEDDING ANNIVERSARY.

WHEREAS, noted with great pleasure is the 54th Wedding Anniversary of Mr. and Mrs. Floyd Lowe of Mobile, Alabama, on April 24, 1998; and

WHEREAS, Floyd and Jeanette Watson Lowe were joined in Holy Matrimony on April 24, 1944, in Mobile, Alabama, and, through the ensuing years, have shared the accomplishments, happiness, and sorrows encountered in a life of mutual trust and devotion; and

WHEREAS, they have distinguished themselves as valued and respected members of their community and, to all who have witnessed their commitment to the ideals of marriage, their lasting partnership has served as an enviable example of trust and devotion, and one to be admired and emulated by others; and

WHEREAS, indeed, this happy couple continues to enjoy life to the fullest in a partnership of shared happiness and pleasures as demonstrated through their mutual interest in the preservation of automotive history and their love of antique cars, and as members of the Antique Automobile Club of America and the Deep South Region A.A.C.A.; and

WHEREAS, the institution of marriage is one of the cornerstones upon which our society is built, and a 54th Wedding Anniversary is indeed a cause for great rejoicing; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby congratulate this exemplary couple, Mr. and Mrs. Floyd Lowe of Mobile, Alabama, on their 54th Wedding Anniversary and their long and happy lives together, and extend to them our sincere best wishes for continued good health and happiness in the years to come.

Approved April 1, 1998

Time: 8:04 A.M.

Act No. 98-247

H.J.R. 144 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. LAWRENCE MOSELEY ON THEIR 51ST WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are extended to Lawrence and Lillian (Nelson) Moseley of Robertsedale, Alabama, who will celebrate their 51st Wedding Anniversary on December 27, 1998; and

WHEREAS, joined in Holy matrimony on December 27, 1947, in Silverhill, Alabama, they have since remained steadfastly faithful to their wedding vows, and to all those who have witnessed their

commitment to the ideals of marriage, the lasting partnership of Mr. and Mrs. Moseley is an enviable example of trust and devotion; and

WHEREAS, not only are Mr. and Mrs. Moseley to be congratulated on this milestone in their long and happy marriage, but also upon the character and accomplishments of their lives together; and

WHEREAS, Mr. and Mrs. Moseley, who are members of the national Antique Automobile Club of America, will be honored at a buffet breakfast sponsored by the Deep South Region Car Club in Mobile, Alabama, on February 14, 1998, and will enjoy the hospitality of family and friends while sharing the beauty of life and trips along the way; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate this exemplary couple on their 51st Wedding Anniversary, and do further direct that they receive a copy of this resolution, executed in highest personal regard and with sincere best wishes for many more happy years together.

Approved April 1, 1998

Time: 8:05 A.M.

Act No. 98-248

H.J.R. 146 – Rep. Crigler

HOUSE JOINT RESOLUTION

CONGRATULATING MR. AND MRS. CECIL NETTLES ON THEIR 58TH WEDDING ANNIVERSARY.

WHEREAS, heartiest congratulations are extended to Cecil and Lucille (Biggs) Nettles of Mobile, Alabama, who will celebrate their 58th Wedding Anniversary on November 30, 1998; and

WHEREAS, joined in Holy matrimony on November 30, 1940, in Evergreen, Alabama, they have since remained steadfastly faithful to their wedding vows, and to all those who have witnessed their commitment to the ideals of marriage, the lasting partnership of Mr. and Mrs. Nettles is an enviable example of trust and devotion; and

WHEREAS, not only are Mr. and Mrs. Nettles to be congratulated on this milestone in their long and happy marriage, but also upon the character and accomplishments of their lives together; and

WHEREAS, Mr. and Mrs. Nettles, who have demonstrated their devotion to the preservation of antique cars as members of the Antique Automobile Club of America and the Deep South Region Car

Club A. A. C. A., will be honored at a buffet breakfast sponsored by the Deep South Region Car Club in Mobile, Alabama, on February 14, 1998, and will enjoy the hospitality of family and friends while sharing the beauty of life and trips along the way; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily congratulate Mr. and Mrs. Nettles on their 58th Wedding Anniversary, and do further direct that they receive a copy of this resolution, executed in highest personal regard and with sincere best wishes for many more happy years together.

Approved April 1, 1998

Time: 8:06 A.M.

Act No. 98-249

H.J.R. 227 – Rep. Letson

HOUSE JOINT RESOLUTION

REQUESTING CONGRESS TO ENACT LEGISLATION TO INCREASE THE VOLUME LIMITS FOR THE ISSUANCE OF PRIVATE ACTIVITY TAX-EXEMPT BONDS.

WHEREAS, private activity tax-exempt bonds finance many worthy projects with a public benefit such as environmental infrastructure projects, including sewage facilities, solid waste disposal facilities, hazardous waste disposal facilities, industrial development projects, student loans, and low-income housing projects; and

WHEREAS, in 1988, Congress lowered the volume cap on the issuance of such bonds to \$50 per person, even though this cap is lower than the 1986 cap originally established, which fails to factor in the passage of time and inflation; and

WHEREAS, many of these worthy projects are not going forward due to the lack of available financing; and

WHEREAS, while taxable financing may be available, the cost of such financing can make a project economically unfeasible because most of these projects do not provide a positive rate of return; and

WHEREAS, the allocation of these bonds in Alabama has been oversubscribed for many years, and in 1997, applications exceeded allocations by a large percentage; and

WHEREAS, demand for private activity bond cap allocation will certainly continue to increase, given Alabama's growing economy, but the \$50 per person allocation will decrease in real value over time, increasing demand relative to the available ceiling; and

WHEREAS, unless Congress increases the volume cap and provides an inflation adjustment for the future, there will be fewer and fewer of these projects that will receive financing; and

WHEREAS, as entities decide to delay or cancel planned investments, economic growth will necessarily slow, causing negative ripple effects throughout the economy; and

WHEREAS, legislation has been introduced in the Congress of the United States that would increase the volume caps and index them for inflation in the future; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING. That we hereby respectfully request the Congress of the United States to enact legislation that would increase the volume caps on private activity tax-exempt bonds.

RESOLVED FURTHER, That we request Congress to consider the impact of inflation in any future legislation concerning this issue.

RESOLVED FURTHER, That we request Congress to consider that funds for this program that are not used by other states should be allowed to be allocated to oversubscribed states such as Alabama.

RESOLVED FURTHER, That copies of this resolution be provided to the President of the United States, the Speaker of the House of Representatives and the President of the Senate of the United States Congress, and to all the members of the Alabama delegation to Congress with the request that this resolution be officially entered on the Congressional Record as a memorial to the Congress of the United States of America.

Approved April 1, 1998

Time: 8:07 A.M.

Act No. 98-250

H.J.R. 243 – Rep. Graham

HOUSE JOINT RESOLUTION

COMMENDING THE ALL-ALABAMA ACADEMIC TEAM.

WHEREAS, it is with great pleasure that heartiest congratulations are herein extended to the students who were selected for the 1998 All-Alabama Academic Team competition; and

WHEREAS, the sponsors of the team are the Alabama Deans of Student Affairs Association, Alabama Instructional Officers' Association, Alabama Financial Management Association, Alabama Presidents' Association, and Phi Theta Kappa, as well as several corporation sponsors; and

WHEREAS, the objectives of the team are to establish a partnership between Alabama two-year colleges and Phi Theta Kappa, promote excellence in education, increase public awareness of educational excellence provided by two-year colleges, and provide recognition to outstanding two-year college students based on academics and leadership; and

WHEREAS, the two teams of exceptionally bright and talented students, who were chosen on the basis of academic excellence and other eligibility rules, include the following top-ranked students on Team One: Angela Burge, Jennifer Kelsch, Tanita Williams, Jane Ingle, Marian Wimberley, Mary Tate, Tucker Malone, Carol Norton, Gregory Barnett, Patrick Reavis, Heather McKnight, Valerie Williams, Charlene Hamilton, Christa Venus, Earl White, Theresa Heffner, Beverly Henry, Wendy Jones, William Lewis, Meredith Mettee, Kevin Windham, Annsonnetta Washburn, Kristina White, Amanda Gatewood, Laura Harden, Regina Foxworth, Robert Hamilton, Christopher Vaughn, Jennifer Arnold, and Amy Hall; and the second-ranked students on Team Two: Rodney Mays, Rhonda Trimble, Karen Ingram, Troy Knight, Floyd Blair, Albert Bush, Margaret Dark, Jean Landreau, Mary Weaver, Stephanie Lacy-Conerly, Jody Hughes, Jennifer Huff, Jamie Anderson, Michael Dahlen, Tamara Littlejohn, Joan Boggan, Chad Chaney, Jody Kiel, Brenda Penn, Paul Brindley, Rodney Mayfield, Lydia Cortes, Amanda Smith, Jeanette Williams, Denton McLaughlin, Joseph Puckett, Spencer Johnson, and Amanda McKathan; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby accorded the 1998 All-Alabama Academic Team members for their outstanding achievement, and it is further directed that a copy of this resolution be provided for appropriate presentation and display, and for each team member as an expression of sincere best wishes for every future happiness and success.

Approved April 1, 1998

Time: 8:08 A.M.

Act No. 98-251 H.J.R. 265 – Reps. Hinshaw, Hall (A), Hall (L),
Papucci, Haney and Sanderford

HOUSE JOINT RESOLUTION

COMMENDING THE BUTLER HIGH SCHOOL LADY REBELS
ON WINNING THEIR SECOND STRAIGHT 6A BASKETBALL
CHAMPIONSHIP.

WHEREAS, the Alabama Legislature, in highest commendation, congratulates the Lady Rebels of Butler High School as the 1998 State Class 6A Basketball Champions; and

WHEREAS, under the masterful leadership of head coach Linda Holt, ably assisted by coaches Robert Holt and Rock Holt, the undefeatable Butler High Lady Rebels with unyielding spirit and determination soundly defeated a competitive LeFlore team by a score of 82-52 to claim their second consecutive state title; and

WHEREAS, members of this amazing team which compiled an incredible 34-0 record on the court, and was ranked #1 in Alabama and 3rd in the nation by USA Today, are Nikki Tibbs, Tasheika Morris, Chaka Robinson, Ashley Keith, Dee Cummings, Ramona Jones, Joi Gopher, Von Kirk, Pam Cruz, and Tara Taylor; and

WHEREAS, cheering the Rebels from the sidelines, and leading the cheers for students and the team's many fans, were Jennifer Baswell, Lori Campbell, Michelle Hall, Andrea Henderson, Candance Jordan, Crystal Lang, Cheri Nicoleau, Janie Patterson, Paula Rigsby, Angela Riley, Kritstin Roberson, Jazmyne Smith-Love, Missy Stolz, Nicole Towry, Allison Weir, Heather Barnes, Quintina Burnett, Jacqueline Carney, Desiree Coleman, Allison Deuel, Obia Ewah, Jacquelyn Fisher, Shanette Granstaff, Jennifer Kelley, Priscilla Mayes, Natalie Mueller, and Stephanie Stolz, sponsored by Becky Lambert and Jessica Kelley; and

WHEREAS, indeed, this outstanding team compiled an array of victories over the 1997-98 season, including McDonald's Thanksgiving Tournament in Birmingham, the Longview, Texas Shootout, the Pickerington, Ohio, Ladies Classic, area and regional tournaments, and, of course, the state tournament; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most heartily congratulate and commend the Butler High School Lady Rebs and their coaches on the 1998 State Class 6A Basketball Championship, and do further direct that copies of this resolution be forwarded to Principal Van Barnes for appropriate presentation and school display.

Approved April 1, 1998

Time: 8:09 A.M.

WHEREAS, Lisa McClendon, who is the recipient of the 1997 Alfa Agent of the Year Award, the highest award an agent can receive within the company, was selected from among 580 Alfa agents throughout Alabama, Mississippi, and Georgia for the vital role she has contributed in sales production to Alfa Insurance Company; and

WHEREAS, Mrs. McClendon has brought an unprecedented level of efficiency, professionalism, and productivity to her job as an agent with Alfa for eight years; she also exerts a profound influence as a member of the Lake Martin-Alexander City Life Underwriters Association and Ethan Club, and serves on the Board of Directors for Junior Achievement in the Tallapoosa District; and

WHEREAS, a student member of the American College, she also received the President's Club in Sales Achievement Award, and is a dedicated and conscientious employee who is held in high esteem for her outstanding contributions to the success of Alfa; and

WHEREAS, Mrs. McClendon is an active and faithful member of First Presbyterian Church in Dadeville, Alabama, and is the loving wife of Phil, who has been a constant source of support and encouragement; they are the very proud parents of a son, Seth; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That commendation is hereby extended to Lisa McClendon upon her selection as 1997 Alfa Agent of the Year, and do further direct that she receive a copy of this resolution as an expression of our tribute and esteem.

Approved April 1, 1998

Time: 8:10 A.M.

Act No. 98-253

H.J.R. 285 – Rep. Kennedy

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF THE REVEREND DOCTOR LEON TAYLOR, SR. OF MOBILE, ALABAMA.

WHEREAS, herein recorded with deep sorrow and regret is the death of the Reverend Doctor Leon Taylor, Sr., a native of Carlton, Clarke County, Alabama, on October 8, 1997; and

WHEREAS, born to the late Reverend Isaiah and Mary Jane Taylor, he professed his faith at the early age of 12 years at Mt. Nebo Baptist Church, and attended Cedar Grove Academy and the Baptist Fellowship Center; he received his Bachelor of Theology Degree from

Easonian Baptist Seminary in 1968; Bachelor of Divinity Degree in 1974; Doctor of Divinity Degree in 1980; and received an Honorary Doctor of Divinity Degree from Selma University in 1980; and

WHEREAS, accepting his call to full-time ministry in 1955, Reverend Taylor, who had a deep commitment to his religious beliefs, began his ministry at Corinthian Missionary Baptist Church as an assistant pastor from 1958 to 1963 and as pastor from 1963 to 1972; he later became pastor of Revelation Missionary Baptist Church on November 5, 1972; and

WHEREAS, vice moderator and moderator of Sunlight District Association, he also was a valued and active member of St. Luke Lodge 61A, Royal Arch, Knights Templar, and the Eunice Chapter 142, Order of the Eastern Star; and

WHEREAS, preceded in death by a daughter, Marie L. Taylor, Reverend Taylor is survived by a loving wife, Portia Green Taylor; two daughters and sons-in-law, Esther B. and Nathaniel Harrell and Jessie Mae and Charleston Lewis; son and daughter-in-law, Leon and Karen Taylor, Jr.; son, Paul L. Taylor; and 13 grandchildren and a host of other relatives and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby extend our very deepest sympathy to Mrs. Portia Taylor, for whom a copy of this resolution of sincere condolence shall be provided.

Approved April 1, 1998

Time: 8:11 A.M.

Act No. 96-254

H. 45 – Rep. Laird

AN ACT

Providing for in-state travel expenses of certain state officials and amending Section 36-7-20 of the Code of Alabama 1975; and providing for the use of certain incidental travel bonuses by state officials and employees.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-7-20 of the Code of Alabama 1975, is amended to read as follows:

“§36-7-20.

“(a) The amount allowable to a person traveling inside the State of Alabama in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees, or other like agencies for expenses other than transportation may be

fixed by the Governor at not less than fifty dollars (\$50) nor more than seventy-five dollars (\$75) per day, and this maximum or limit when fixed from time to time shall be uniform in operation as to all persons traveling within the state on official business.

“(b) No travel allowance shall be paid for a trip of less than six hours’ duration. For travel which does not require an overnight stay, the traveler shall be paid a meal allowance of 15 percent of the regular per diem rate for a trip of from six to 12 hours’ duration, and for travel in excess of 12 hours’ duration, the traveler shall be paid one meal allowance and one-fourth of the per diem allowance.

“(c) The per diem allowance shall not be paid to an employee stationed at the same place in the state for a period in excess of two consecutive months. After two consecutive months the amount of the allowance shall be reduced to 75 percent of the regular per diem rate per day. Notwithstanding the foregoing, this section shall not apply to officers and employees of the State of Alabama when they incur expenses representing the State of Alabama in the encouragement and promotion of trade or industrial development. On those occasions, when the representation is properly approved, those persons shall be reimbursed for the actual expenses incurred and paid by them if the representation is approved in advance in writing by the Governor or by the Director of Finance when so designated by the Governor.

“(d) This section shall not apply to examiners or other persons designated by the Commissioner of Insurance to examine or cause to be examined the domestic insurance corporations qualified in this state when the expense incurred by those persons shall be paid by, collected, or received from the corporations examined under Section 27-2-25.

“(e) This section shall be optional with the employing agency in those instances where the employee is required to attend training sessions, schools, seminars or other like group functions at a facility when it would serve the best interests of both the state and the employee, or in those instances when the employee is assigned to assist in suppressing on-going natural disaster situations, or other emergencies. In those cases, the cost of meals and per diem may be paid as set forth herein or by the employing agency of the state directly to the contract facility furnishing the service, but the costs of these services shall not exceed the amount allowable to the individual employee for in-state travel.

“(f) For purposes of applying this section to members of the Legislature, each of the following shall apply:

“(1) The presiding officer of the house to which the member belongs shall determine if the travel is in the service of the state.

“(2) In connection with the same travel, members of the Legislature shall receive per diem under this section except in either of the following instances:

“a. For attendance on special or regular session days or committee meeting days of the Legislature when otherwise compensated pursuant to law.

“b. For attendance on interim committee meeting days of the Legislature when otherwise compensated pursuant to law.

“(3) Travel means a departure from the place of residence of the member of the Legislature.”

Section 2. Any other law to the contrary notwithstanding, a public official or a public employee may receive, obtain, or otherwise convert to personal use a bonus that is incidental to travel in the performance of official duties of the public official or public employee if the bonus is individual in nature and not able to be transferred to another unrelated individual or to the state, or a county, municipality, or governmental entity. This section is declaratory of and does not constitute a change in existing law.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 6, 1998

Time: 3:00 P.M.

Act No. 98-255

S. 119 – Senator Ghee

AN ACT

To establish a toll-free telephone number in the offices of the Department of Rehabilitation Services to provide information on rights and responsibilities under the Americans with Disabilities Act; to provide for staffing and operation of the office and to make appropriations to the department for the purposes of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. There shall be established at the Department of Rehabilitation Services a toll-free telephone number in an office staffed by an assistant or deputy attorney general to provide information on the rights and responsibilities under the Americans with Disabilities Act. The Attorney General shall appoint either an assistant attorney general or deputy attorney general to staff the office, who shall have experience and knowledge in disability law and related issues. The duties of the office shall include, but not be limited to the following:

Public information; referral; public education; training; data collection; and analysis. All records of the office shall be confidential.

Section 2. All public relations material of the office shall identify the office as an office of an assistant or deputy attorney general. The office may develop forms, records, documents, and other materials as it may deem necessary to perform its duties. The assistant or deputy attorney general shall make an annual report to the Legislature, the Attorney General, and to the Alabama Disability Commission.

Section 3. The assistant or deputy attorney general and the office staff are prohibited from practicing law and shall have the same immunities against civil damages in the performance of their duties as for other employees or assistants of the Attorney General.

Section 4. There is appropriated from the General Fund for the fiscal year beginning October 1, 1998, the sum of fifty thousand dollars (\$50,000) to the Department of Rehabilitation Services to be used to establish, operate, and maintain the office created under Section 1 and the sum of ten thousand dollars (\$10,000) to be used for the operation of the Individual and Family Support Regional Councils in support of the purpose of this act.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 6. All laws or parts of laws which conflict with this act are repealed.

Section 7. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 7, 1998

Time: 8:30 A.M.

Act No. 98-256

S. 92 – Senators Freeman and Amari
AN ACT

To amend Section 32-13-3 of the Code of Alabama 1975, relating to the removal of abandoned motor vehicles; to require that a person who has an abandoned motor vehicle under certain conditions on his or her property provide notice to persons with a lawful interest in the abandoned motor vehicle.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-13-3 of the Code of Alabama 1975, is amended to read as follows:

“§32-13-3.

“(a) (1) Any automobile dealer, wrecker service or repair service owner, or any person or firm on whose property a motor vehicle is lawfully towed at the written request of a law-enforcement officer, or the owner or lessee of real property, or his or her, agent upon which an abandoned motor vehicle as defined in subdivision (1) or (3) of section 32-13-1 has become abandoned, and who has the abandoned motor vehicle as defined in subdivision (1) or (3) of Section 32-13-1 on his or her property, may sell the vehicle at public auction.

“(2) Any person or firm on whose property an abandoned motor vehicle as defined in subdivision (2) of Section 32-13-1 has been lawfully towed, or the owner or lessee of real property or his or her agent, upon which an abandoned motor vehicle as defined in subdivision (2) of Section 32-13-1 has become abandoned, and who has the abandoned motor vehicle as defined in subdivision (2) of Section 32-13-1 on his or her property except vehicles which have been claimed within seven days after being towed, and who has notified or attempted to notify by certified mail, return receipt requested, the owner or lienholders of record, if any, after the abandoned motor vehicle was lawfully towed onto his or her property, may 60 days after the abandoned vehicle was lawfully towed sell the vehicle at public auction. In addition, if notice was not given or attempted to be given as provided herein to the owner or lienholders, no additional storage charges may be added after 30 days.

“(3) The Department of Revenue, judge of probate or other motor vehicle licensing official, and any law enforcement agency shall provide the person or entity giving notice under this section with information concerning the most recent address in their files for the owner and lienholders. The actual cost of giving notification not to exceed twenty-five dollars (\$25), which shall be properly documented. to the owner or lienholders of record, if any, shall be paid by the person or entity holding the vehicle, but shall be paid by the owner or lienholders on or before picking up the vehicle. The return of a certified letter unclaimed shall be proof of an attempt to give notice as required by this subsection.

“(b) Notice of the date and place of the sale and a description of the vehicle to be sold shall be given by a newspaper publication at least 10 days before the date of the sale in a newspaper of general circulation in the county in which the sale is to be held. In counties in which no newspaper is published, notice shall be given by posting such notice in a conspicuous place at the courthouse.

“(c) Upon payment of the sales price, the purchaser shall be entitled to and the person making the sale shall issue a bill of sale to the abandoned motor vehicle, free and clear of all liens and encumbrances.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 7, 1998

Time: 5:00 P.M.

Act No. 98-257

H. 708 – Rep. Hammett

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Covington County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No person elected or appointed Sheriff of Covington County, or any elected or appointed Covington County official, may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every sheriff and other elected or appointed Covington County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Covington County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, school board member, or any official elected from a judicial circuit. All costs associated with the purchase of prior service credit as prescribed in

Section 36-27-6.1, Code of Alabama 1975, shall be the responsibility of the official making the purchase.

Section 2. An election upon the proposed amendment shall be held at the same time as the June 1998 primary election and shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the June 1998 primary election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Covington County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House February 24, 1998

Passed the Senate April 7, 1998

Act No. 98-258

H.J.R. 187 – Rep. Maull

HOUSE JOINT RESOLUTION

MOURNING THE UNTIMELY DEATH OF DISTRICT ATTORNEY ROY JOHNSON.

WHEREAS, recorded with deep and abiding sorrow is the lamentable and untimely death of Fourth Judicial District Attorney Roy Johnson on February 11, 1998, at the age of only 49 years; and

WHEREAS, Mr. Johnson attended Tulane University and the University of Alabama School of Law, and served his country with patriotism as a captain in the United States Marines; and

WHEREAS, he was elected to the Fourth Judicial Circuit in 1980, ultimately being re-elected, and represented Bibb, Dallas, Hale, Perry, and Wilcox Counties, the largest geographic circuit in the state, and always kept himself available and accessible to the people he served; and

WHEREAS, the death of District Attorney Roy Johnson has indeed left an unfathomable void in the lives of the Fourth Judicial Circuit and in the hearts of his loving wife, Anita; son, Matthew; and daughter, Gabrielle, who seek solace in cherished memories that will live forever; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the life and selfless service of the late Roy Johnson is recognized with gratitude and praise, and it is further directed that a copy of this resolution be provided to his wife, Anita, with sincere condolence.

Approved April 8, 1998

Time: 3:55 P.M.

Act No. 98-259

H.J.R. 188 – Rep. Kennedy

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF DEACON JAMES EDISON WEAVER OF MOBILE, ALABAMA.

WHEREAS, it is with profound sorrow and regret that the Alabama House of Representatives records the death of Deacon James Edison Weaver of Mobile, Alabama, on January 25, 1998, at the age of 83 years; and

WHEREAS, a dearly beloved member of the Mobile, Alabama, community, James Edison Weaver, or “Granddaddy” or “Paw Paw” as he was affectionately known to many Mobile residents, was a man of deep and abiding faith, a dedicated and obedient servant of God, and a master of the Bible and the Scriptures; and

WHEREAS, an ordained deacon before the age of 20, he faithfully served at Greater Mount Olive No. 2 Baptist Church of Mobile for more than 50 years, and was widely known for his Bible lesson broadcast on The Interdenominational Sunday School Program, radio station WGOK; and

WHEREAS, he was also chorister of the church Vocal Choir and president of the South Wayne County Mississippi/Alabama Vocal Singing Convention; he further served as president of the Laymen’s Division in the National Baptist Convention’s First Eastern Shore District Association and Southwest District of the State Convention, and was known throughout the state and nation for his efforts in organizing laymen; and

WHEREAS, a veteran of World War II in the Pacific, Mr. Weaver graduated from Cedar Grove Academy, attended Bishop

State Community College, and received an honorary doctorate from the college's Interdenominational Theology Seminary; he was a native of Blacksher, Alabama, and for more than 45 years worked at Alabama Dry Dock and Shipbuilding in Mobile; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his loss, we give thanks to God for the life and service of James Edison Weaver of Mobile, Alabama, and, by copy of this resolution, extend heartfelt sympathy to his daughter, Irene Ware; sons, Dane Weaver and Benjamin Weaver; stepchildren, Mary Lucy and James Edward Johnson, Jr.; sisters, Agnes Lee James, Lillie M. McGadney, and Rosetta Williams; to his 12 grandchildren and 22 great-grandchildren; and to other close family members and friends, whose sorrow we sincerely share.

Approved April 8, 1998

Time: 3:56 P.M.

Act No. 98-260

H.J.R. 210 – Rep. Dolbare

HOUSE JOINT RESOLUTION

RECOMMENDING FEDERAL RECOGNITION OF THE MOWA BAND OF CHOCTAW INDIANS OF SOUTHWEST ALABAMA.

WHEREAS, the MOWA Band of Choctaw Indians, located in southwest Alabama, is recognized by the Sovereign State of Alabama as an American Indian Tribe; and

WHEREAS, the MOWA Band of Choctaw Indians has actively sought recognition from the United States of America as an Indian Tribe since the early 1980s; and

WHEREAS, the MOWA Band of Choctaw Indians believes that it has successfully demonstrated to the best of its historical, geneological and anthropological abilities that it remains, and has always been of Choctaw ancestry; and

WHEREAS, it is the duty and responsibility of the United States Government to make remuneration to the MOWA Band of Choctaw Indians by recognizing it as a tribe with all the rights that apply; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the members of the Alabama House of Representatives and the Alabama State

Senate do hereby request that the Department of the Interior, Bureau of Indian Affairs, reconsider its decision regarding recognition for the MOWA Band of Choctaw Indians.

BE IT FURTHER RESOLVED, That every member of the United States Congress be given copies of this resolution in order to assist the MOWA Band of Choctaw Indian Tribe, if he or she so chooses, in its efforts to achieve federal recognition.

Approved April 8, 1998

Time: 3:57 P.M.

Act No. 98-261

H.J.R. 247 – Rep. Johnson (R)

HOUSE JOINT RESOLUTION

DESIGNATING THE CHARLES L. CAMP, M.D., PUBLIC HEALTH FACILITY IN SYLACAUGA, TALLADEGA COUNTY, ALABAMA.

WHEREAS, following his distinguished service as a Navy flight surgeon, Dr. Charles L. Camp practiced family medicine in Sylacauga for 37 1/2 years, while further serving his profession as President of the Alabama Academy of Family Physicians and as an active and visible member of the Talladega County Board of Health, among other associations; and

WHEREAS, his devotion and respect for all human life were evident in the tireless, and oftentimes voluntary, medical and personal services Dr. Camp provided to the elderly residents of nursing homes, neglected and dependent children and youth, school athletic groups, and Sylacauga County Jail inmates; and

WHEREAS, for 25 years, Dr. Camp reveled in hosting an annual picnic at his family farm for graduating seniors of the Sylacauga Hospital School of Nursing, and more recently for Sylacauga Hospital employees, where games, horseback riding, and laughter were prescribed in large doses; and

WHEREAS, the commitment exhibited by Dr. Camp to the health of the community was echoed in his commitment and love for church and family; his wife, Mrs. Jean Camp; their three children, Mrs. Angie Morrow, Mrs. Dawn Camp Sorrell, and Mrs. Beth Babin; and their eight grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in honor of the memory of Dr. Charles Lee Camp and his countless contributions

on behalf of the health and well-being of the community, we hereby request of the State Health Officer that the Sylacauga Public Health Facility of Talladega be named and designated the Charles L. Camp, M.D., Public Health Facility, and that the proper officials be authorized to erect and maintain appropriate signs and markings so designating the facility.

Approved April 8, 1998

Time: 3:58 P.M.

Act No. 98-262

H.J.R. 299 – Rep. White

HOUSE JOINT RESOLUTION

COMMENDING, POSTHUMOUSLY, CAPTAIN CHRIS MCCURLEY AS RECIPIENT OF THE 1998 ALABAMA LEGISLATURE LAW ENFORCEMENT MEDAL OF HONOR.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes, posthumously, Captain Chris McCurley of Rainbow City, Alabama, as recipient of the 1998 Alabama Legislature Law Enforcement Medal of Honor, the state's highest law enforcement award for extraordinary courage in the line of duty; and

WHEREAS, Captain McCurley, the recently appointed chief of Etowah County's Drug Task Force, was killed in the line of duty during the execution of a narcotics search at a southern Etowah County home on the morning of October 10, 1997; and

WHEREAS, accompanied by officers of the task force and the Rainbow City Police Department, Captain McCurley was struck down by the blast from a semi-automatic assault weapon as he stepped forward to lead fellow officers into the house; and

WHEREAS, Captain McCurley was a skilled and dedicated professional with an extensive background and training in all aspects of law enforcement, and had served long and well in his charge to defend the peace and uphold the law to the good and well-being of his fellow citizens; and

WHEREAS, the recipient of numerous honors and awards for his courage and professionalism, Captain McCurley began his law enforcement career in Mississippi, as a security officer at Hines Community College, serving successively with the Jackson, Mississippi Police Department, Amite County Sheriff's Department, and the Mississippi Bureau of Narcotics; and

WHEREAS, he joined the Etowah County Sheriff's Department in 1985, where he rose quickly through the ranks to deputy

sheriff, investigator in Etowah County's first drug task force; to the rank of captain in criminal investigation; and, finally, to commander of the drug task force shortly before his death; and

WHEREAS, his devotion to duty, personal integrity, outgoing personality and ability to relate to others fostered a spirit of friendship, respect and trust among his fellow officers and all who knew him; he was also a devoted husband and father to his wife, Donna, and his two sons, Nathan and Pete, and a cherished brother of Linda Sterling and Judy Short; and

WHEREAS, indeed, Captain McCurley was a true exemplar of the dedicated law enforcement officer who, in the line of duty and in ultimate sacrifice, gives his own life that others might live; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with highest honor that we recognize, posthumously, Chris McCurley of Rainbow City, Alabama, as recipient of the 1998 Alabama Legislature Law Enforcement Medal of Honor, and direct that a copy of this resolution be provided for his family as an expression of our gratitude and esteem for the life and service of Captain McCurley, and our shared sorrow in his loss.

Approved April 8, 1998

Time: 3:59 P.M.

Act No. 98-263

H.J.R. 300 – Rep. White

HOUSE JOINT RESOLUTION

COMMENDING SERGEANT GARY ENTREKIN AS RECIPIENT OF THE 1998 ALABAMA LEGISLATURE LAW ENFORCEMENT MEDAL OF HONOR.

WHEREAS, it is with highest commendation that the Legislature of Alabama recognizes Sergeant Gary Entekin as recipient of the 1998 Alabama Legislature Law Enforcement Medal of Honor, the state's highest law enforcement award for extraordinary courage in the line of duty; and

WHEREAS, Sergeant Gary Entekin, a 12-year veteran law enforcement officer with the Rainbow City Police Department, was critically wounded in the line of duty during the execution of a narcotics search by members of the Etowah County Drug Task Force and fellow officers of the Rainbow City Police Department as they

attempted to enter a southern Etowah County home on the morning of October 10, 1997; and

WHEREAS, Sergeant Entrekin received a gunshot wound to the back from a semi-automatic assault weapon as he attempted to call for help moments after Captain McCurley, commander of the drug task force, had been killed by a blast from the same weapon—an heroic effort which would result in his loss of a leg, but one which most likely saved the lives of his fellow officers; and

WHEREAS, as a tribute to his distinguished service, Sergeant Entrekin has been the recipient of numerous commendations and awards, including the Medal of Valor and a Purple Heart from the Etowah County Sheriff's Department, the Chief's Award for outstanding work and dedication, and the Purple Heart and Officer of the Year honors from the Rainbow City Police Department; and

WHEREAS, Sergeant Entrekin is truly a worthy exemplar of those caring and dedicated men and women who, at risk to their own personal safety, stand ever ready to provide prompt and professional response in times of threat or crisis, and he is indeed deserving of this distinguished award; and

WHEREAS, Sergeant Entrekin has been a member of the Rainbow City Police Department since 1986, and has worked three years with the Etowah County Narcotics Task Force; he is also a devoted husband and father to his wife, Angie, and their two children, Kristen and Chase; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Sergeant Gary Entrekin as recipient of the 1998 Alabama Legislature Law Enforcement Medal of Honor and, with sincere best wishes, direct that he receive a copy of this resolution as a measure of our gratitude and esteem.

Approved April 8, 1998

Time: 4:00 P.M.

Act No. 98-264 H.J.R. 341 – Reps. Page, Ford, Sanderford, Galliher, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford (J), Fuller, Gaines, Gaston, Gipson, Graham, Guin,

Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Pringle, Robinson, Rogers (J), Rogers (M), Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis and Wren

HOUSE JOINT RESOLUTION

COMMENDING THE ETOWAH COUNTY DRUG AND MAJOR CRIMES TASK FORCE AND THE RAINBOW CITY POLICE FORCE FOR BRAVERY AND HEROISM.

WHEREAS, on October 10, 1997, when agents of the Etowah County Drug and Major Crimes Task Force and an officer with the Rainbow City Police Department attempted to execute a drug search warrant at a residence in Rainbow City, Alabama, the suspect opened fire with an assault rifle; and

WHEREAS, the altercation left Captain Chris McCurley fatally injured and Agent Khris Yancey, Deputy Rick Correll, and Sergeant Gary Entrekin seriously injured; and

WHEREAS, officers from Rainbow City, including Chief Morris Alexander, Captain Roy Perkins, and Captain Tommy Watts arrived on the scene, shooting the suspect several times and saving the other officers on the scene from further harm or death; and

WHEREAS, the two suspects, wearing bulletproof vests when taken into custody, now await trial in the Etowah County Detention Center on a number of charges, including capital murder, and a subsequent search of the premises and other buildings revealed a large quantity of crystal methamphetamines; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we offer our sincere gratitude and appreciation to the brave and heroic members of the Etowah County Drug and Major Crimes Task Force; Captain Chris McCurley, Agent Jimmie Entrekin, Agent Paul Pruett, Jr., Agent Khris Yancey, Agent Joe Hereford, Deputy Rick Correll, and Rainbow City Sergeant Gary Entrekin; and the assisting officers of the Rainbow City Police Department, Chief Morris Alexander, Captain Roy Perkins, and Sergeant Tommy Watts, and we direct that a copy of this resolution be provided to each named officer.

the Etowah County Drug and Major Crimes Task Force; Captain Chris McCurley, Agent Jimmie Entrekin, Agent Paul Pruett, Jr., Agent Khristian Yancey, Agent Joe Hereford, Deputy Rick Correll, and Rainbow City Sergeant Gary Entrekin; and the assisting officers of the Rainbow City Police Department, Chief Morris Alexander, Captain Roy Perkins, and Sergeant Tommy Watts, and we direct that a copy of this resolution be provided to each named officer.

BE IT FURTHER RESOLVED, That our prayers and thoughts are with the family and friends of the fallen officers, and we direct that a copy of this resolution be provided to the family of each.

Approved April 8, 1998

Time: 4:01 P.M.

Act No. 98-265

S.J.R. 102 – Senators Roberts, Denton,
Butler, Freeman, and
Bedford

SENATE JOINT RESOLUTION

EXPRESSING SUPPORT FOR TENNESSEE VALLEY
AUTHORITY PROGRAMS AND URGING CONGRESS TO CON-
TINUE TVA PROGRAMS AND SERVICES.

WHEREAS, the resource management activities of the Tennessee Valley Authority (TVA) are essential to the safety and well-being of the people of the Tennessee Valley region and add significantly to the quality of life and vibrant commerce of the region; and

WHEREAS, the TVA is unique among federal agencies in that its main offices are located in the Tennessee Valley region, rather than in Washington D.C., resulting in a close working relationship with the people of the region, a valuable asset to the efficiency of its operations; and

WHEREAS, the TVA model was the first federal program that was designed to address the total resource development needs of a major region; in addition to the familiar projects of electrical power generation, river commerce management, and flood control, other TVA projects include land conservation, tree planting, malaria control, fish and wildlife development, mineral resource development, fertilizer production research, social and educational enhancements, and recreational resource study and development; and

WHEREAS, TVA manages a major watershed across state and county boundaries as an integrated unit, combining and coordinating economic development objectives around the complex needs of a single ecosystem; and

WHEREAS, TVA's integrated river-management system offers a wide range of benefits to all American taxpayers through its clean water initiatives, by reducing surface transportation, and by pioneering environmental practices; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express our strong support and endorsement for the effectiveness with which TVA administers its programs and services, and by copy of this resolution to each member of the Alabama delegation, urge the United States Congress to fully provide for and support TVA programs and services.

Approved April 8, 1998

Time: 4:02 P.M.

Act No. 98-266

S.J.R. 103 – Senators Langford, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING FORMER SENATOR FRED R. JONES FOR HIS OUTSTANDING WORK AS CIVILIAN AIDE FOR THE SECRETARY OF THE ARMY FOR ALABAMA.

WHEREAS, Fred Jones served in the Alabama National Guard and the Army Reserve for over 40 years; and

WHEREAS, upon his retirement from the Army Reserve, the Secretary of the Army appointed Fred Jones as Civilian Aide for the State of Alabama; and

WHEREAS, Fred Jones in his capacity as the Secretary's aide has been instrumental in keeping our reserve forces, including the Guard and Reserve, up to full strength and readiness level; and

WHEREAS, Fred Jones has indeed been dedicated in his performance as Civilian Aide for the Secretary of the Army for

Alabama, and is deserving of our highest acclaim and deepest gratitude for his unswerving commitment to duty and country; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Fred R. Jones, a native Alabamian of whom we are justly proud, and direct that copies of this resolution be provided for Mr. Jones and for the Secretary of the Army in Washington, D. C.

Approved April 8, 1998

Time: 4:03 P.M.

Act No. 98-267

S.J.R. 104 – Senators Steele, and Sanders

SENATE JOINT RESOLUTION

COMMENDING THE SUMTER COUNTY HIGH SCHOOL BOYS' BASKETBALL TEAM AS THE 1998 STATE CLASS 4-A CHAMPIONS.

WHEREAS, the Alabama Legislature, in highest commendation, congratulates the Sumter County High School Wildcats on their 1998 State 4-A Basketball Championship; and

WHEREAS, the Sumter County High School Wildcats, ably directed by Head Coach Johnny Patrick, Assistant Coaches Darren Blakley and Chris Spencer, and Manager Herman Johnson, posted an impressive 25-4, 1997-98 season record to claim the coveted 4-A Title; and

WHEREAS, greatly contributing to these outstanding accomplishments were team members Mario Austin, Broderick Coby, Willie Davis, Kelvin Graham, Clyde Harmon, Michael Harris, Maurice Jackson, Reynaldo James, Donnell Law, Jeremy Law, Charles Landrum, Jazmin Mitchell, Willie Ray, and Ellis Watkins; and

WHEREAS, these fine young athletes indeed bring great honor to themselves, their school, and community and, along with their talented coach Johnny Patrick, are indeed deserving of highest praise for their dedicated efforts and accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Coach

Johnny Patrick and the members of the Sumter County High School Boys' Basketball Team as the 1998 State 4-A Champions, and direct that a copy of this resolution be provided for appropriate presentation and display at Sumter County High School.

Approved April 8, 1998

Time: 4:04 P.M.

Act No. 98-268

S.J.R. 107 – Senators Dixon, and Figures

SENATE JOINT RESOLUTION

COMMENDING VIRGINIA DERBY-GRIMES FOR HER DISTINGUISHED GOLFING CAREER.

WHEREAS, Virginia Derby-Grimes, a native of York, Alabama, is the daughter of Virginia Noble Perkins Derby and the late Evan Allison Derby, Sr., sister of Evan Allison Derby, Jr., and a prominent resident of Montgomery, Alabama, who has brought great acclaim to her native state with her outstanding golfing achievements; and

WHEREAS, Mrs. Derby-Grimes is descended from a distinguished Alabama family including her grandfather, Frank I. Derby, in whose honor the Rooster Bridge was built across the Tombigbee to connect the East and West (Marengo and Sumter counties); grandmother, Kate Horn Derby, who was a member of the first coed graduating class at the University of Alabama; and a maternal great grandfather, N. Snow Perkins, a member of the first Auburn football team that played against the University of Alabama; and

WHEREAS, a former Auburn University Women's Golf Coach, she won numerous golf tournaments on the state and national level, and was the Women's Alabama State Amateur Champion in 1989, 1993, 1994, and 1995; she also is the current title holder of the 69 year-old Women's South Atlantic Amateur Championship, which she won in January 1998, allowing her into the LPGA Titleholders Championship in May 1998; and

WHEREAS, a participant in the U.S. Women's Amateur for seven years and amateur medalist in 1995 and 1997, she has qualified and played in three United States Women's Opens in 1987, 1990, and 1995 and, with teammates Beth Williams and Kathy Hartwiger, won the 1997 USGA State Team Championship in Scottsdale, Arizona, in a field of 44 state teams; and

WHEREAS, Mrs. Derby-Grimes, who is currently ranked fifth nationally for amateur women, was a Curtis Cup alternate in 1996,

received strong consideration for the U.S. Curtis Cup team, which will be announced in June 1998, and has held numerous leadership positions, most especially in junior golf; and

WHEREAS, Virginia Derby-Grimes is married to her loving and supportive husband, Dr. Ben Grimes, a medical doctor in Montgomery, and is an active and faithful member of St. James Episcopal Church in Livingston, Alabama; and

WHEREAS, Mrs. Derby-Grimes, who also has used her amazing mix of courage, love, and faith to triumph over serious physical injuries and surgeries, is indeed applauded for her outstanding stellar career in golf and is a valuable asset to the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Virginia Derby-Grimes is applauded for her many outstanding professional achievements and, by copy of this resolution, extended God's blessings and comfort as she continues to face life's challenges.

Approved April 8, 1998

Time: 4:05 P.M.

Act No. 98-269

S.J.R. 108 – Senator Armistead

SENATE JOINT RESOLUTION

COMMENDING JUSTIN DANIEL BATES OF CLANTON, ALABAMA, FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, highest commendation is herein accorded Justin Daniel Bates of Clanton, Alabama, who has attained the rank of Eagle Scout, scouting's highest honor; and

WHEREAS, dedicated to his commitment to scouting since 1986, 16-year-old Justin Daniel Bates earned this coveted rank through countless hours of hard work, diligence, and great perseverance to complete the required community service project and to fulfill other stringent criteria for Eagle Scout status; and

WHEREAS, for his service project, Justin chose the placing of signs for the nature trail at the Confederate Memorial Park in Verbena, Alabama, and, among many responsibilities, was responsible for organizing, framing, and installing the signs on site; and

WHEREAS, young Justin has indeed demonstrated an outstanding record of accomplishment throughout his academic and scouting career; he is a member of Chilton County Schools' Gifted Program; is active in the youth program at First Baptist Church, and was an active volunteer in preparation of the Olympic Torch

Relay in 1996; attended the National Boy Scouts of America Jamboree in the summer of 1997, an event which occurs only once in a scout's career; has won numerous motocross trophies and awards; and earned the God and Country Medal for 1991, the first in his county to do so; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation is hereby bestowed upon Eagle Scout Justin Daniel Bates of Clanton, Alabama, for whom a copy of this resolution shall be provided, with sincere best wishes for every future happiness and success in life.

Approved April 8, 1998

Time: 4:06 P.M.

Act No. 98-270

S.J.R. 109 – Senators Freeman, and Bedford

SENATE JOINT RESOLUTION

SUPPORTING THE REAUTHORIZATION OF THE ECONOMIC DEVELOPMENT ADMINISTRATION.

WHEREAS, the Economic Development Administration has provided essential financial assistance to distressed communities in Alabama each year since 1963, and during this period Alabama has received more than \$260,000,000; and

WHEREAS, such expenditures have proven fiscally prudent and socially beneficial, and we note that 327 permanent jobs, 15 construction jobs, \$10,000,000 of private sector investment, and an increase of \$10,000,000 in the local tax base occur each time the Economic Development Administration invests \$1,000,000 in a public work project, solid proof that projects funded by the Economic Development Administration result in significant job creation, major capital investments, and dramatic improvements to the tax proceeds of our communities; and

WHEREAS, distressed communities, despite intense efforts and great community and personal sacrifices, are frequently unable to obtain sufficient finances to provide and maintain essential and fundamental infrastructure services to new and expanding businesses, an inability which regrettably results in continued hardships and a perpetuation of economic difficulties; and

WHEREAS, it is imperative for the future growth of our state, indeed our nation, and for the improved general well-being of all our citizens, that this critical source of assistance continue; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That this legislative body unequivocally declares its support for the Economic Development Partnership Act of 1998, which would provide for a five-year reauthorization of the Economic Development Administration, and that we respectfully encourage the United States Congress to enact such legislation.

BE IT FURTHER RESOLVED, That a copy of this resolution be forwarded to Senators Shelby and Sessions, and Representatives Aderholt, Bachus, Callahan, Cramer, Everett, Hilliard, and Riley, so that each may know of our great interest and earnest expectations regarding this vital legislation.

Approved April 8, 1998

Time: 4:07 P.M.

Act No. 98-271

S. 268 – Senator Mitchell

AN ACT

To amend Sections 34-4-6, 34-4-7, 34-4-21, 34-4-27, 34-4-30, and 34-4-50, Code of Alabama 1975, relating to auctioneers; to provide further for sales at auction; membership on the State Board of Auctioneers; to provide for penalties; and to specifically repeal Sections 8-14-20, 8-14-21, and 11-51-97, of the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 34-4-6, 34-4-7, 34-4-21, 34-4-27, 34-4-30, and 34-4-50, Code of Alabama 1975, are amended to read as follows:

“§34-4-6.

“No political subdivision of this state shall have the power or authority after September 5, 1973, to levy or collect any license tax from or to require the licensing in any manner of any auctioneer who has been licensed and bonded under this chapter in lieu of the license tax or license fee heretofore imposed by any political subdivision.

“§34-4-7.

“(a) Any person violating this chapter, shall, upon conviction, be guilty of a Class A misdemeanor, subject to a fine or imprisonment, or both.

“(b) Any person, having previously been convicted for violating this chapter, who subsequently violates this chapter, shall, upon conviction for the subsequent violation, be guilty of a Class C felony, subject to a fine or imprisonment, or both.

“§34-4-21.

“(a) Any person desiring to enter into the auction business and obtain a license as an auctioneer or apprentice auctioneer shall make written application for a license to the board. Each application shall be accompanied by an examination fee of an amount not to exceed one hundred dollars (\$100) which shall be collected from each applicant to defray the expenses of the examination. A fee of an amount not to exceed one hundred fifty dollars (\$150) shall also be collected from each nonresident applicant who seeks licensing by reciprocity. The application shall be submitted on forms prepared and furnished by the board.

“(b) Each applicant for a license as an auctioneer shall be 19 years of age or over, and each applicant for a license as an apprentice auctioneer shall be 18 years of age or over and shall be a citizen of the United States. Each applicant for an auctioneer's license shall: (1) have completed a prescribed course of study at an accredited auctioneering school approved by the board; (2) have served one year as an apprentice auctioneer under a licensed auctioneer in this state; (3) have been the principal auctioneer in at least five auctions of either real or personal property during this period of time; and (4) furnish satisfactory proof of these requirements to the board. An application shall also be accompanied by a recommendation of an employing auctioneer. If an applicant has not completed a course of study at an accredited auctioneering school, then he or she shall be required to serve two years as an apprentice under a licensed auctioneer, and shall have been the principal auctioneer in at least 10 auctions of real or personal property.

“(c) Any person who files an application with the board in the proper manner shall be entitled to take an oral and written examination to determine his or her qualifications. The board shall require applicants to take and pass a written and oral examination establishing in a manner satisfactory to the board that the applicant has a general knowledge of ethics, reading, writing, spelling, elementary arithmetic, elementary principles of land economics, and a general knowledge of the statutes of this state relating to the bulk sales, auctions, brokerage, and this chapter. The examination for an auctioneer's license shall be of a more exacting nature and scope than the examination for an apprentice auctioneer. The board shall, through application and examination, determine whether the applicant is of good repute, trustworthy, honest, and competent to transact the business of an auctioneer, or of an apprentice auctioneer, in a manner that safeguards the interest of the public. The board shall require, and it shall be the responsibility of any applicant for an initial, renewal, or reciprocal license to disclose any prior felony conviction, any prior misdemeanor conviction involving moral turpitude, any pending criminal arrest of any nature except misdemeanor traffic violations, and any prior or pending disciplinary proceedings against the applicant before a board

of auctioneers or real estate commission in this or any other state. All auctioneers, apprentice auctioneers, and auction firms are under a continuing duty to report to the board any and all such criminal arrests, charges, convictions, or disciplinary proceedings which they may incur, as well as any civil suits involving them. The board must receive notice of any such arrest, charge, criminal conviction, or commencement of disciplinary proceedings within 30 days of its occurrence. Notice of the commencement of any civil suit must be received by the board within 30 days after service of the complaint upon the defendant in the action.

“(d) The license fee for each auctioneer shall be an amount to be determined by the board, not to exceed two hundred fifty dollars (\$250), and the license fee for each apprentice auctioneer shall be an amount to be determined by the board, not to exceed one hundred dollars (\$100). The license fees for an auctioneer shall not be increased more than twenty-five dollars (\$25) in any given year.

(e) All licenses shall expire on September 30 of each year following issuance thereof and may be renewed upon payment of the appropriate license fee as required by this chapter. Renewal of a license may be effected at any time during the months indicated preceding the date of expiration. No examination shall be required for the renewal of any license, unless the license has been revoked or suspended. If a licensee fails to renew his or her license by the deadline of each year, he or she may have his or her license renewed within 60 days after the expiration date, upon payment of the required fee and a late fee of twenty-five dollars (\$25) for apprentices and fifty dollars (\$50) for auctioneers. If a licensee elects not to pay the penalty and renew his or her license, he or she shall submit an application, pay the examination fee, and take the examination required for new licensees.

“(f) The board shall adopt a program of continuing education for its licensees. No licensee shall have his or her license renewed unless, in addition to any other requirements of this chapter, the minimum annual continuing education requirements are met. The continuing education program shall not include testing or examination of the licensees in any manner. Any licensee 65 years of age or older shall be exempt from the continuing education requirement.

“(g) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed openly at all times in the office of the licensee. The certificate and the pocket card of the apprentice auctioneer shall contain his or her name as well as that of the auctioneer under whose supervision he or she is employed.

“(h) When any auctioneer discharges an apprentice, or terminates his or her employment with the auctioneer for any reason,

the auctioneer shall deliver or mail by registered or certified mail to the board the license of the discharged apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter, either directly or indirectly under authority of his or her license, until the apprentice auctioneer receives a new license bearing the name and address of his or her new employer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

“(i) Written notice shall be given immediately to the board by each licensee of any change in his or her mailing address and the board shall issue a new license for the unexpired period. A change of mailing address without notification to the board shall automatically cancel the license previously issued. For changing a mailing address and issuance of a new license, the board shall collect a fee of five dollars (\$5). Each prior license shall be returned or accounted for to the board and be canceled before the issuance of the new license. The board may require other proof considered desirable with due regard to the paramount interest of the public in the issuance of the license.

“(j) Pursuant to Sections 41-22-1 to 41-22-27, inclusive (the Alabama Administrative Procedure Act), the board may make and enforce any necessary and reasonable rules and regulations pursuant to the application for any license.

“§34-4-27.

“Each auctioneer shall annually pay one state license in an amount not to exceed two hundred fifty dollars (\$250). Each auctioneer shall also annually pay a county license of twenty-five dollars (\$25) in each county where he or she sells by auction. No privilege license shall be required for any apprentice auctioneer when he or she is listed as the principal auctioneer. No license shall be required for any auctioneer who conducts an auction, without compensation for himself or herself, where all proceeds from the auction go to the benefit of any charitable organization. The term “auctioneer” shall include any person selling real estate, goods, wares, merchandise, automobiles, livestock, or other things of value at public outcry. Sales at public outcry may be made for compensation without license involving any of the following:

“(1) Sales for the estate of a decedent.

“(2) Sales of property conveyed by deed of trust, mortgage, judgment, or ordered to be sold according to the mortgage, judgment, or order.

“(3) All sales under legal process.

“§34-4-30.

“(a) The board may administer oaths and prescribe all necessary and reasonable rules for the conduct of a hearing. The board

may take testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure of courts of this state in civil cases. The fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

“(b) If the board determines that the licensee is guilty under this chapter, his or her license may be suspended or revoked.

“(c) The affirmative vote of a majority of the board shall be necessary to revoke or suspend a license.

“(d) The board is declared to be a quasi judicial body, and the members or the employees of the board are granted immunity from civil liability and shall not be liable for damages therefrom when acting in the performance of their duties as described in this chapter.

“§34-4-50.

“(a) The Governor shall appoint a State Board of Auctioneers to be comprised of seven members except as otherwise provided by this amendatory act. All appointments and subsequent appointments by the Governor shall be for a term of five years, with each member appointed being a resident of each congressional district. Within 60 days after the effective date of this amendatory act, the Governor shall appoint one additional member provided for herein for a term of two years and the additional member provided for in this amendatory act shall be appointed by the Governor for four years. Thereafter, subsequent appointments shall be for a term of five years. Appointments shall end on the anniversary date of the original appointments, except appointments to fill a vacancy which shall be for the unexpired term only. No member shall serve more than two consecutive terms of office. Each member of the board and his or her successor shall have been a resident and citizen of this state for at least five years prior to his or her appointment. Each member of the board and his or her successor shall have been a licensed auctioneer in this state for at least five years. Each member shall hold office until his or her successor is appointed by the Governor. The board shall reflect the racial and gender of licensed auctioneers in the state.

“(b) Each member of the board shall be of good moral character and shall have been licensed by the board and actively engaged in the auction business for at least 5 years prior to the appointment.

“(c) On the appointment of a new board member, the board shall, at its next meeting, elect one of its members as chair, one member as vice-chair, one member as secretary, and any other officers deemed necessary. The board may do all things necessary

and convenient for carrying into effect this chapter. The board may make bylaws, rules, and regulations not inconsistent with this chapter or other general laws of the state.

“(d) The members of the board, its staff, and attorneys shall receive the same per diem and travel allowance paid to state employees for each day they meet to conduct the official business of the board.

“(e) The board may employ an administrator who shall be exempt from the classified service of the state, and other staff members necessary to discharge its duties and administer this chapter. The administrator shall be employed on the basis of his or her education, experience, and skills in administration and management. The board shall determine the duties and fix the compensation of the administrator and other staff members, subject to the general laws of the state.

“(f) The board shall adopt a seal by which it shall authenticate records and documents. On the seal shall be the words “State Board of Auctioneers.” Copies of all records and documents in the office of the board that are duly certified and authenticated by the seal of the board shall be received in evidence in all courts equally and with the same effect as the original. All public records kept in the office of the board shall be open to public inspection during reasonable hours.”

Section 2. (a) Findings of the board with regard to the suspension or revocation of a license or the imposition of an administrative fine shall be final unless within 30 days after the date of the final order of the board, the applicant, or otherwise known as the accused, whether an individual or a corporation registered in Alabama, files a notice of appeal in the Circuit Court of Montgomery County. A party appealing a decision shall post a two hundred dollar (\$200) appeal bond with the clerk of the circuit court. The circuit clerk shall notify the board of the appeal after the clerk has approved the appellant's bond.

(b) An appeal does not act as supersedeas, but the decision of the board may be stayed by the court pending the appeal.

(c) The board shall within 30 days of service of the notice of appeal, or within the additional time as the court may allow, file the record in the case with the circuit clerk. A complaint setting forth with particularity the issues raised on appeal shall be filed with the court and served on the board by the appealing party within 30 days after the notice of appeal is filed. The action shall be conducted in accordance with the Alabama Rules of Civil Procedure.

(d) The appeal shall be conducted by the court without a jury and shall be confined to the record made before the board. The

decision of the board shall be taken as prima facie just and reasonable and the court shall not substitute its judgment for that of the board as to the weight of the evidence on questions of fact. The court shall affirm or reverse, in part or in whole, or modify the decision of the board. The court may remand the case to the board for further proceedings.

(e) If the decision of the board is affirmed in whole or in part, the cost of the appeal shall be taxed against the party taking the appeal. If the decision of the board is not affirmed, the court shall tax the costs of appeal against the board.

Section 3. Sections 8-14-20, 8-14-21, and 11-51-97, Code of Alabama 1975, relating to the regulation and licensing of auctions and auctioneers are specifically repealed.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on April 9, 1998 without approval by the Governor.

Act No. 98-272

S. 36 – Senators Mitchem, Hale, Barron, Steele, Ghee, Poole, McClain, Smitherman, Escott-Russell, Davidson, Amari, Bedford, Denton, Lindsey, Freeman, Windom, Dial, Bailey, Langford, Butler, Sanders, Dixon, Clay, Little, Waggoner, Roberts, Mitchell, Adams, Biddle, Myers, Armistead, Figures, Smith, Hill, and Lipscomb

AN ACT

To provide for a cost-of-living increase to certain retirees and beneficiaries of the Employees' Retirement System.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Commencing October 1, 1998, each person, except those whose employer participated in the Employees' Retirement System pursuant to Sections 36-27-6, 36-27-7, and 36-27-7.1, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to October 1, 1998, and who is receiving or is entitled to receive a monthly allowance from the Employees'

Retirement System, shall receive a cost-of-living increase of not less than thirty dollars (\$30) per month and the increase shall be more if determined by computing the sum of the following two factors:

- (1) Four percent of the individual's current gross monthly benefit, including all previous increases.
- (2) Two dollars (\$2) for each year of creditable service in covered employment prior to retirement.

Retirees who chose Option 2, 3, or 4 shall receive the cost-of-living increase reduced by the same percentage as the reduction which occurred because of the option selected unless the designated beneficiary under the option is deceased on July 1, 1998, in which case the increase shall not be reduced.

(b) Beneficiaries of deceased members or deceased retirees, except where the deceased member or deceased retiree retired from an employer participating in the Employees' Retirement System pursuant to Sections 36-27-6, 36-27-7, and 36-27-7.1, Code of Alabama 1975, if the date of death for the deceased member, or the effective date of retirement for the deceased retiree for purposes of receiving benefits from the Employees' Retirement System was prior to October 1, 1998, shall receive the cost-of-living increase in the amount attained by the retiree reduced by the retiree's option election factor but the reduction shall not make the increase less than thirty dollars (\$30) per month.

Section 2. (a) Commencing October 1, 1998, each person whose employer participated in the Employees' Retirement System pursuant to Section 36-27-6, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to July 1, 1998, and who is receiving or is entitled to receive a monthly allowance from the Employees' Retirement System, may receive a cost-of-living increase determined by the formula used in Section 1, if the employer elects to come under this act. Retirees who chose Option 2, 3, or 4 shall receive the cost-of-living increase reduced by the same percentage as the reduction which occurred because of the option selected unless the beneficiary under the option selected is deceased on July 1, 1998, in which case the increase shall not be reduced. Any employer making the election to come under the act shall bear the cost of the cost-of-living increases paid to its employees pursuant to this section. Any employer participating under Section 36-27-6, Code of Alabama 1975, may elect to come under this act at anytime and have the act become effective on October 1, 1998, or on October 1 of any subsequent fiscal year and the employer shall not be required to pay this cost-of-living increase retroactively unless the employer elects to fund the increase.

(b) If the employer elects to come under this act, beneficiaries of deceased members or deceased retirees retired from an employer participating in the Employees' Retirement System pursuant to Section 36-27-6, Code of Alabama 1975, shall receive the same cost-of-living increase provided in Section 1, reduced by the retiree's option factor but the reduction shall not make the increase less than thirty dollars (\$30) per month.

Section 3. Commencing October 1, 1998, each person whose employer participated in the Employees' Retirement System pursuant to Sections 36-27-7 and 36-27-7.1, Code of Alabama 1975, whose effective date of retirement for purposes of receiving benefits from the Employees' Retirement System is prior to July 1, 1998, and who is receiving a monthly allowance or is eligible to receive a monthly allowance from the Employees' Retirement System, shall receive a cost-of-living increase in the amount of one half the amount of the years of service factor and the full amount (four percent) of the current gross benefit factor of the formula in Section 1. Retirees who chose Option 2, 3, or 4 shall receive the cost-of-living increase reduced by the same percentage as the reduction which occurred because of the option selected unless the designated beneficiary under the option is deceased on July 1, 1998, in which case the increase shall not be reduced. Beneficiaries of deceased members or deceased retirees of employers participating in the Employees' Retirement System pursuant to Sections 36-27-7 and 36-27-7.1, Code of Alabama 1975, shall be entitled to the increase the retiree has attained using the formula provided in Section 1 as modified by this section, reduced by the retiree's option election factor. No retiree or beneficiary of this class shall receive a benefit increase of less than twenty dollars (\$20) per month.

Section 4. The Board of Control of the Employees' Retirement System shall determine annually the amount required to pay the cost of the increased allowance provided under Sections 1 and 3 of this act, and shall notify the chief fiscal officer of each employer of the percentum rates of earnable compensation of the members required to be paid to the retirement systems. Each employer of members of the Employees' Retirement System shall pay on account of the increases provided in Sections 1 and 3 in the same manner and from the same source of funds as provided in Sections 36-27-7 and 36-27-24, Code of Alabama 1975, it being the intent of the Legislature that the cost of providing the increases in Sections 1 and 3 of this act shall be distributed from all funds in proportion to the salaries paid therefrom for active members.

Section 5. The Board of Control of the Employees' Retirement System may notify any employer who participated in the Employees' Retirement System and has withdrawn from participation on the effective date of this act that the cost-of-living increases provided by

this act and Acts 96-572, 1996 Regular Session, 94-232, 1994 Regular Session, as amended by 94-768 of the 1994 First Special Session, and 93-604, 1993 Regular Session, are available to their retirees and beneficiaries provided the employer elects to fund the increase.

Section 6. (a) Commencing October 1, 1998, any retired employee who retired from a city, town, county, or public or quasi-public organization of the state before the city, town, county, or public or quasi-public organization of the state became a member of the Employees' Retirement System, and who is receiving a monthly benefit prior to October 1, 1998, administered by the Employees' Retirement System, and whose years of creditable service has not been made known to the Employees' Retirement System, may receive an increase in benefits in the amount of sixty dollars (\$60) per month if the monthly benefit is five hundred dollars (\$500) or less; ninety dollars (\$90) per month if the monthly benefit is more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000); one hundred twenty dollars (\$120) per month if the monthly benefit is more than one thousand dollars (\$1,000) but less than fifteen hundred dollars (\$1,500); one hundred fifty dollars (\$150) if the monthly benefit is more than one thousand five hundred dollars (\$1,500) but less than two thousand dollars (\$2,000); one hundred eighty dollars (\$180) per month if the monthly benefit is two thousand dollars (\$2,000) but less than two thousand five hundred dollars (\$2,500); and two hundred ten dollars (\$210) if the monthly benefit is more than twenty-five hundred dollars (\$2,500), provided the retired employee retired prior to October 1, 1998, and the employer decides to come under the provisions of this act.

(b) Retired local public agency employees who retired prior to membership of the employer in the Employees' Retirement System and whose creditable service records have been received by the Employees' Retirement System shall receive an increase based on the formula in Section 1 provided the employer elects to fund the increase.

Section 7. Commencing October 1, 1998, beneficiaries of pensioners formerly participating in a retirement program of a Class 1 municipality but whose benefits are currently administered by the Employees' Retirement System shall receive a monthly increase of sixty-five dollars (\$65) provided the local public board elects to fund the increase. All other beneficiaries of Employees' Retirement System pensioners shall receive an increase of thirty dollars (\$30) per month provided the local units elect to fund the increase.

Section 8. Commencing October 1, 1998, any pensioner or annuitant who retired prior to October 1, 1998, from a city, town, county, or public or quasi-public organization of the state before the city, town, county, or public or quasi-public organization of the

is receiving a monthly benefit not administered by the Employees' Retirement System shall receive a fifty dollar (\$50) per month increase provided the city, town, county, or public or quasi-public organization of the state elects to fund the increase provided the pensioner retired prior to October 1, 1998.

Section 9. Any county board, department, or agency responsible for the local administration of a program for a state board, department, or agency affiliated with the Employees' Retirement System on October 1, 1998, may provide the cost-of-living increase pursuant to this act to any retiree or beneficiary who retired prior to July 1, 1998, if the local administrative unit elects to fund the increase.

Section 10. Any person who received benefits under the Medicaid Program and whose eligibility for Medicaid benefits would be impaired by the cost-of-living increase provided by this act shall not be entitled to receive the increase. Any person who subsequently applies for benefits under the Medicaid Program and that person's eligibility to receive benefits is impaired by the cost-of-living increase provided by this act, shall not be entitled to receive the increase subsequent to the date that the member files application for benefits under the Medicaid Program.

Section 11. The provisions of this act are supplemental. It shall be construed in pari materia with other laws regulating and providing for the payment of retirement benefits to the retired members of the Employees' Retirement System. However, those laws or parts of laws which are in direct conflict or inconsistent with this act are repealed to the extent of the conflict.

Section 12. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 10, 1998

Time: 4:30 P.M.

Act No. 98-273

S.J.R. 111 – Senators Dixon, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Escott-Russell, Figures, Freeman, Ghee, Hale,

Hill, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING CHERYL G. CARTER AS RECIPIENT OF THE 1998 AMERICAN HERO IN EDUCATION AWARD.

WHEREAS, highest commendation is herein accorded Cheryl G. Carter as a recipient of the 1998 Reader's Digest American Hero in Education Award, a prestigious selection awarded annually to only 10 recipients from a national field of 700 nominees in recognition of outstanding professional contributions and achievements; and

WHEREAS, Ms. Carter has gained praise and recognition for her innovative educational programs in Montgomery, Alabama, as Director of Development, Saint James School; principal, Booker T. Washington Magnet High School; director, assistant principal, and an administrative assistant at Carver Creative and Performing Arts Center, Carver Senior High School; and as a teacher at both Robert E. Lee High School in Montgomery and Henry County Middle School; and

WHEREAS, she spearheaded the writing of a successful Magnet Schools Assistance Grant which entitles the Montgomery Public Schools System to 6.9 million dollars in federal funding for magnet schools, and was voted one of 10 outstanding career Women of the Year for 1998 by the Montgomery Advertiser; and

WHEREAS, a dedicated and conscientious educator and administrator, she has won such prestigious awards as the Governor's Arts Award, Woman of Achievement Award, Pat on the Back Award, as well as Achievement in Excellence and Achievement in Education Awards; and

WHEREAS, Ms. Carter also continued her high level of involvement in numerous positions on a local, state, national, and international level with Leadership Montgomery, the Association of Secondary School Principals, the Magnet Schools of America, and the International Network of Performing and Visual Arts Schools; and

WHEREAS, in sincere admiration of her many notable accomplishments as a distinguished educator, Ms. Carter, who has impacted greatly to the benefit of the many young men and women who were privileged to her tutelage, counsel, and guidance over the course of her accomplished career, is indeed acknowledged with deep gratitude for her invaluable professional contributions and achievements in the field of education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

the course of her accomplished career, is indeed acknowledged with deep gratitude for her invaluable professional contributions and achievements in the field of education; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Cheryl G. Carter is hereby most highly commended as a recipient of the 1998 Reader's Digest American Hero in Education Award, and it is further directed that she receive a copy of this resolution of sincere admiration and esteem.

Approved April 13, 1998

Time: 8:00 A.M.

Act No. 98-274

S.J.R. 112 – Senators Dixon, Langford, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Smitherman, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING GREGORY B. CALHOUN FOR OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Gregory B. Calhoun, who is President and CEO of Calhoun Enterprises, owns five supermarkets in Alabama and opened his sixth and largest store in Montgomery, Alabama, on April 2, 1998; and

WHEREAS, representing the minority business professional, Mr. Calhoun has brought great credit to himself as a highly successful entrepreneur with Calhoun Foods, as well as a consulting firm, The Calhoun and Associates Network, which oversees minority affairs for America's prominent corporations; and

WHEREAS, as a result of his tireless hard work and unwavering commitment, Mr. Calhoun was able to purchase his first supermarket in Montgomery during 1984 and, after compiling an

impressive record of success, hired more than 500 employees in stores in Montgomery, Tuskegee, and Selma; and

WHEREAS, the recipient of numerous prestigious awards on the local, state, and national level, Mr. Calhoun received the National Minority Retail Firm of the Year Award in 1990, sponsored by the United States Department of Commerce, and was named one of the top 100 Black-owned businesses in the United States in 1992 by Black Enterprise magazine; and

WHEREAS, he has made invaluable contributions to the local community through sponsorship of the Walter Payton Legends Celebrity Golf Classic, his dedicated hard work with the YMCA, and for the positive impact he has had upon countless youth as a mentor and friend; and

WHEREAS, a true servant of the community, Mr. Calhoun has been responsibly involved with numerous boards including the Montgomery Area Food Bank, Montgomery Area United Way, Sterling Bank, and the Food Marketing Institute; and

WHEREAS, Mr. Calhoun, who is a faithful member of First Baptist Church, is married to his supportive and extraordinarily skillful chief partner and vice president, Verlyn, and they are the proud parents of three children; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Mr. Gregory B. Calhoun for his outstanding professional achievements and present a copy of this resolution as evidence of sincere best wishes for continued happiness and future success.

Approved April 13, 1998

Time: 8:01 A.M.

Act No. 98-275

S.J.R. 114 – Senator Poole

SENATE JOINT RESOLUTION

COMMENDING THE TUSCALOOSA ACADEMY SCHOLARS BOWL TEAM.

WHEREAS, it is with special pride and pleasure that the Alabama Legislature recognizes the Tuscaloosa Academy Scholars Bowl Team; and

WHEREAS, this exceptional group of young people are indeed deserving of highest commendation, not only for their victory at

the Alabama Independent Schools State Scholars Bowl tournament held in Montgomery, Alabama, on March 18, 1998, but, most especially, for their display of those finest qualities of character, honorableness, and integrity which are the mark of a true champion; and

WHEREAS, it was during a tough fourth round match-up with Mobile Christian Academy, when a mathematics question was asked, that Mobile Christian, first at the buzzer, gave a response the moderator ruled incorrect; although TA was trailing by 75 points, and at a point of critical need, they informed the moderator that indeed the answer was correct, choosing a course of honesty above their hope for victory – indeed a noble gesture; and

WHEREAS, ironically, however, as the tournament progressed the Academy pulled from behind on the last question to claim a close victory; and

WHEREAS, expertly coached by Mrs. Maureen Kohl, members of this extraordinary team are Jean Neuberger, Todd Peterson, Erin Ingram, Adrian Hagemann, Dawn Wells and Evan Elder; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend the Tuscaloosa Academy Scholars Bowl Team, an outstanding group of young Alabamians of whom we are justly proud, and for whom a copy of this resolution shall be provided.

Approved April 13, 1998

Time: 8:02 A.M.

Act No. 98-276

S.J.R. 116 – Senator Waggoner

SENATE JOINT RESOLUTION

RECOGNIZING HEALTHSOUTH LAKESHORE REHABILITATION HOSPITAL ON THE 25th ANNIVERSARY OF SERVICE.

WHEREAS, over the past 25 years, HealthSouth Lakeshore Rehabilitation Hospital of Homewood, Alabama, an inpatient rehabilitation facility, has helped countless thousands of disabled persons to regain health, function, and independence from their debilitating situations, allowing them to return to productive roles at work, home, and in the community; and

WHEREAS, HealthSouth Lakeshore Hospital is associated with HealthSouth Corporation, the nation's largest provider of outpatient rehabilitative healthcare services, with more than 1,800

locations in 50 states, and provides acute and modified rehabilitation, day treatment, residential services, and outpatient services; and

WHEREAS, the hospital, which is accredited by the Joint Commission on the Accreditation of Healthcare Organizations, offers family education/training, group support services, and sports and recreation therapy in addition to its services to persons suffering from debilitating conditions resulting from injury and disease; and

WHEREAS, there will be a gala celebration of the hospital's 25th anniversary of service on September 10 and 11, 1998; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize HealthSouth Lakeshore Rehabilitation Hospital on its 25th anniversary of service, and by copy of this resolution, extend our appreciation to the administration and staff of this outstanding institution.

Approved April 13, 1998

Time: 8:03 A.M.

Act No. 98-277

S.J.R. 117 – Senators Butler, Bedford,
Amari, and Roberts

SENATE JOINT RESOLUTION

URGING THE DEPARTMENT OF REVENUE TO ISSUE TAX EXEMPT NUMBERS TO CERTIFIED VOLUNTEER FIRE DEPARTMENTS.

WHEREAS, certified volunteer fire departments and all real and personal property of such fire departments are exempt from the payment of any state, county, or city taxes, fees, licenses, and charges of any nature pursuant to Sections 40-9-12 and 40-9-13 Code of Alabama 1975; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby urge the Department of Revenue, by copy of this resolution to the Commissioner of Revenue, to issue tax exempt numbers to these organizations.

Approved April 13, 1998

Time: 8:04 A.M.

Act No. 98-278

S.J.R. 119 – Senators Smitherman, Adams, Amari, Armistead, Bailey, Barron, Bedford, Biddle, Butler, Clay, Davidson, Denton, Dial, Dixon, Escott-Russell, Figures, Freeman, Ghee, Hale, Hill, Langford, Lindsey, Lipscomb, Little, McClain, Mitchell, Mitchem, Myers, Poole, Roberts, Sanders, Smith, Steele, Waggoner, and Windom

SENATE JOINT RESOLUTION

COMMENDING THE HONORABLE JUDGE J. RICHMOND PEARSON ON HIS MANY ACHIEVEMENTS AND CONTRIBUTIONS.

WHEREAS, J. Richmond Pearson, a native of Birmingham, Alabama, has amassed an impressive resume of awards for personal, political, and civic service and achievements throughout his admirable career as an Assistant United States Attorney for the Northern District of Alabama, an Alabama State Senator, and Circuit Court Judge for the Tenth Judicial Circuit in Birmingham; and

WHEREAS, Judge Pearson has used his eloquence, logic, and boundless knowledge to enhance the efficiency and productivity of such noteworthy political and legislative committees as the Joint Legislative Committee on Criminal Justice, the State Interim Rules Revision Committee, and the Fiscal Affairs and Oversight Committee, among others; and

WHEREAS, as a valuable member of the National Conference of State Legislatures, the Southern Legislative Conference of the Council of State Governments, and the first of his race to ever chair the powerful Senate Finance and Taxation Committee, with the direct responsibility to formulate the state budget, Senator Pearson provided inspiration to countless aspiring politicians; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we extend the Honorable Judge J. Richmond Pearson our sincere thanks and appreciation for his many achievements and contributions to the City of Birmingham, Jefferson County, the State of Alabama, and the United States, and direct that a copy of this resolution be provided to

him and each of his daughters, Attorney Janine Richet Pearson and Dr. Julene Ranicea Pearson.

Approved April 13, 1998

Time: 8:05 A.M.

Act No. 98-279

H. 222 – Rep. Newton (D)

AN ACT

To adopt and incorporate into the Code of Alabama 1975 those general and permanent laws of the state enacted during the 1996 Second Special Session and the 1997 Regular Session of the Legislature as contained in the 1997 Cumulative Supplement to certain volumes of the Code and in the 1997 Replacement Volumes 6, 14, 14A, and 18 of the Code; to make corrections in certain volumes of the cumulative supplement; to specify that this adoption and incorporation constitute a continuous systematic codification of the entire Code of Alabama 1975 and that this act is a law that adopts a code; to declare that the Code Publisher has certified it has discharged its duties regarding the replacement volumes; to expressly provide that this act does not affect any 1997 First Special Session statute or any 1998 statute; and to specify the duties of the Secretary of State regarding the custody of these cumulative supplements and replacement volumes.

Be It Enacted by the Legislature of Alabama:

Section 1. Those general and permanent laws of the state enacted during the 1996 Second Special Session and the 1997 Regular Session of the Legislature as contained in the 1997 Cumulative Supplement to Volumes 3 to 5, inclusive, Volumes 6A to 13A, inclusive, Volumes 15 to 17A, inclusive, and Volumes 19 to 22A, inclusive, and the 1997 Replacement Volumes 6, 14, 14A, and 18 of the Code of Alabama 1975, including Sections 34-8-1 and 34-8-2 as properly reprinted in the correction sheet distributed by the publisher, and the additions and deletions made by the Code Commissioner for editorial purposes, as edited and published by Lawyers Cooperative Publishing, now known as West Group, as the Code Publisher, which volumes of the 1997 Cumulative Supplement and the 1997 Replacement Volumes are identified and authenticated by the Great Seal of the State of Alabama placed upon the front and back of each of the volumes of the cumulative supplement and upon the first inside page and the last inside page of the replacement volumes, are adopted and incorporated into the Code of Alabama 1975. Provided, however, the following corrections are made in certain volumes of the 1997 Cumulative Supplement:

1. Section 8-6-146, Volume 6A, page 18: In the first sentence after the language “On death of a sole owner or the last to die of all

multiple owners, ownership", delete "or" and insert in lieu thereof: of

2. Section 33-4-48, 1997 Replacement Volume 18, page 107: In subsection (a) in the first sentence following the language "from March 29, 1997 to", delete "March 28, 1998, the sum of twenty-three dollars (\$23) per draft foot; from March 29, 1998 to March 28, 1999, the sum of twenty-four dollars (\$24) per draft foot; effective March 29, 1999 to the effective date of the act amending this code section," and insert in lieu thereof: March 29, 1998, the sum of twenty-three dollars (\$23) per draft foot; from March 29, 1998, to March 29, 1999, the sum of twenty-four dollars (\$24) per draft foot; effective March 29, 1999, to March 29, 2000,

3. Section 34-1A-5, 1997 Replacement Volume 18, page 290: In subdivision (1) of subsection (d) after the language "license revoked for fraud, misrepresentation, or any other", delete "chapter" and insert in lieu thereof: act

4. Section 34-9-16, 1997 Replacement Volume 18, page 466: Immediately after "as follows:", delete "Education fee for student hygienists in Alabama dental hygiene program.....\$25 to \$200"

Section 2. The adoption and incorporation of the supplement and replacement volumes specified in this act shall constitute a continuous systematic codification of the entire Code of Alabama 1975 for purposes of Section 85 of the Constitution of Alabama of 1901. This act is a law that adopts a code for the purposes of Section 45 of the Constitution of Alabama of 1901.

Section 3. It is declared that Lawyers Cooperative Publishing, now known as West Group, as the Code Publisher, has certified that it has discharged its duties and responsibilities to edit and publish 1997 Replacement Volumes 6, 14, 14A, and 18 of the Code of Alabama 1975 by combining the material in the previous bound volume with the material contained in the cumulative supplement without making substantive changes, but making, under the supervision and pursuant to the direction of the Code Commissioner, nonsubstantive changes and corrections as may have resulted from changes in reference numbers, changes of names and titles of governmental departments, agencies, and officers, typographical errors, grammatical changes, and misspellings.

Section 4. The adoption of this act shall not repeal, supersede, amend, or in any other way affect any statute enacted into law during the 1997 First Special Session or any 1998 session of the Legislature.

Section 5. Upon passage and approval of this act, the duly authenticated volumes of the 1997 Cumulative Supplement and

the duly authenticated 1997 Replacement Volumes shall be transmitted to the Secretary of State, who shall file the volumes of the supplement and the replacement volumes in that office. The volumes of the supplement and the replacement volumes shall not be removed from the office of the Secretary of State, but the Secretary of State, upon request, under proper certificate and seal of that office, shall certify any part or parts thereof upon payment of the fee specified by law for similar services.

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 13, 1998

Time: 11:45 A.M.

Act No. 98-280

H. 51 – Rep. Hall (A)

AN ACT

Relating to Madison County; to amend Sections 1, 2, 3, and 4 of Act 1862, 1971 Regular Session (Acts 1971, p. 3024), as amended; to require the county to establish and maintain a license department; to provide for the election of a director of the department; and to provide for the salary of the director.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1, 2, 3, and 4 of Act 1862, 1971 Regular Session (Acts 1971, p. 3024), as amended, are amended to read as follows:

“Section 1. This act shall apply only in Madison County.

“Section 2. There is hereby created a county license department in the county. Said county license department is hereinafter referred to in this act as the department.

“Section 3. Upon written notification to the county commission by the director of the department holding office on the effective date of this amendatory act, of the director’s intention to retire on a future specified date, a succeeding director of the department shall be elected by the qualified voters of the county at the next countywide election and every six years thereafter. The director shall serve for a term of six years. Any vacancy in the office of the director of the department, because of death, resignation, or otherwise, shall be filled by appointment by the Governor. The appointee shall serve as director until the end of the unexpired term of the previously elected director.”

"Section 4. The salary of the director of the department shall be in the same amount and payable in the same manner as the salaries of the Madison County Tax Assessor and Tax Collector."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 13, 1998

Time: 11:46 A.M.

Act No. 98-281

S. 579 – Senator Clay

AN ACT

Relating to Macon County; amending Act 93-875, 1993 First Special Session, relating to the Macon County Economic Development Authority; to delete the implementation prohibition regarding funding.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 5 of Act 93-875, 1993 First Special Session, relating to the Macon County Economic Development Authority, is amended to read as follows:

"Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 13, 1998

Time: 11:47 A.M.

Act No. 98-282

S. 494 – Senator Windom

AN ACT

Relating to Mobile County; amending Act 82-312, 1982 Regular Session (Acts 1982, p. 420), relating to the creation of a public corporation in Bayou La Batre for the construction of marinas and waterfront facilities, to provide further for the board of directors of the corporation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 82-312, 1982 Regular Session (Acts 1982, p. 420), is amended to read as follows:

“Section 1. The governing body of the City of Bayou La Batre, Mobile County, Alabama, may declare by the adoption of appropriate resolution the need for the formation of a public corporation to carry out the provisions of this act. Upon the adoption of such resolution the governing body of the City of Bayou La Batre shall appoint five persons, each of whom shall be a duly qualified elector or property owner in the City of Bayou La Batre or corporate officer of a property owner in the City of Bayou La Batre, who shall form the board of directors of such corporation and shall proceed to organize such corporation.”

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 13, 1998

Time: 11:48 A.M.

Act No. 98-283

S. 627 – Senators Mitchell, Dixon,
and Hill

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Elmore County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Elmore County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Elmore County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Elmore County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the

time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Elmore County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the Senate April 7, 1998

Passed the House April 9, 1998

Act No. 98-284

S. 630 – Senator Choe

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to provide that the Legislature, by local act, may provide for the manner of selection of the members of the Board of Education of the City of Anniston in Calhoun County and may provide further for the operation of the board.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

The Legislature, by local act, may provide for the manner of selection of the members of the Board of Education of the City of

Anniston in Calhoun County and may provide further for the operation of the board.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Calhoun County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Legislature, by local act, to provide for the manner of selection of the members of the Board of Education of the City of Anniston and may provide further for the operation of the board.

Proposed by Act _____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the Senate April 7, 1998

Passed the House April 9, 1998

Act No. 98-285

H. 587 – Rep. Allen

AN ACT

To make certain findings; to grant a credit against severance tax levied on natural gas by Article 1, Chapter 20, Title 40 Code of Alabama 1975 and by Section 9-17-25 Code of Alabama 1975 to certain producers of natural gas, which credit shall reduce the cost of natural gas to certain manufacturers of direct reduced iron (DRI) using natural gas, at DRI plants that are, upon plant completion, located on land owned by the Alabama State Docks Department and that have engaged the Alabama State Docks Department to handle cargo on behalf of the manufacturer; to limit the amount of the credit to the lesser of (i) \$4,700,000 or (ii) 4% of the capital cost of the DRI plant; to provide a procedure for claiming severance tax credit; to provide for the effect of the credit on the allocation and distribution of severance tax revenues; to provide for the sunset of the credit unless renewed by the Alabama Legislature; and to provide an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The following section is hereby added to immediately follow Section 40-20-13 of the Code of Alabama (1975), as amended, as a part of Article 1 of Chapter 20 of Title 40:

“§40-20-14. Credits against tax for manufacturers of direct reduced iron.

“(a) FINDINGS. The legislature finds and declares as follows:

(1) Certain industries ought to be encouraged to consume gas produced in the state by permitting producers of gas to obtain a credit against severance tax to the extent that the value of such credit results in the reduction of the cost of the gas to such industries.

(2) The granting of such a credit will encourage certain industries that are major consumers of gas to purchase gas from producers or intermediate suppliers that extract or purchase gas from wells in Alabama subject to the severance tax.

(3) Due to the fungible nature of gas and the commingling of gas from various sources that typically occurs in the transportation of gas through a network of shared pipelines, a DRI manufacturer should not be required to trace gas from its source in order to benefit from a cost reduction based on the credit, provided that it can be shown that at least the amount of gas with respect to which the credit is granted has been produced by the taxpayer, at least the amount of gas with respect to which the credit is granted is supplied to the DRI manufacturer, and in the case of an intermediate supplier, that the intermediate supplier has purchased at least the amount of gas with respect to which the credit is granted from the taxpayer and the intermediate supplier has sold at least the amount of gas with respect to which the credit is granted to the DRI manufacturer.

(4) 7.4% of the deemed taxable value of the gas is a reasonable approximation of the severance tax that is levied, collected and distributed to the general fund of the state, being the severance tax levied by Section 9-17-25 Code of Alabama 1975 plus the severance tax levied by Article 1, Chapter 20, Title 40 Code of Alabama 1975 on gas produced from wells on submerged lands.

“(b) DEFINITIONS. The following terms, as used in this section, are defined as stated below:

(1) CAPITAL COST. The cost for federal income tax purposes of the DRI plant determined upon plant completion, as certified by the DRI manufacturer to the department, determined without regard to depreciation or amortization of any kind.

(2) DEEMED TAXABLE VALUE. The gas amounts, as shown on the monthly tax forms O&G Production-2 or O&G Offshore-2, in the column labeled “PRODUCER’S NET TAXABLE VALUE” divided by the gas amounts in the column labeled “PRODUCER’S LIABILITY-VOLUME.”

(3) **DRI.** Direct reduced iron, being iron produced from iron ore by chemical reaction with gas.

(4) **DRI MANUFACTURER.** A manufacturer of DRI at a DRI plant in a process utilizing gas, provided that –

(i) As of the date of plant completion, the manufacturing process takes place on a site owned by the Alabama State Docks Department;

(ii) As of the date of plant completion, the DRI manufacturer has engaged the Alabama State Docks Department to provide cargo handling services with respect to iron ore that provides the raw material for the production of the DRI; and

(iii) The production of DRI in the state by the DRI plant commenced no earlier than October 1, 1997.

(5) **DRI PLANT.** The land, buildings, facilities, equipment, leasehold improvements, and other tangible property, real or personal, owned or leased by the DRI manufacturer for the purpose of producing DRI.

(6) **GAS.** All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in Section 40-20-1(4).

(7) **GAS CONSUMPTION VOLUME.** For any reporting period, an amount, stated in mcf, equal to the lesser of the following:

(i) The amount of gas consumed by the DRI manufacturer at the DRI plant, as certified by the DRI manufacturer to the taxpayer, or

(ii) Either

(A) If gas is supplied by the taxpayer to the DRI manufacturer, the amount of gas supplied by the taxpayer to the DRI manufacturer, or

(B) If gas is supplied by an intermediate supplier to the DRI manufacturer, the lesser of

(I) the amount of gas sold by the taxpayer to the intermediate supplier, or

(II) the amount of gas supplied by the intermediate supplier to the DRI manufacturer.

(8) **INTERMEDIATE SUPPLIER.** Any person that (a) purchases gas from a taxpayer or from another intermediate supplier that in turn purchased from a taxpayer and (b) supplies gas to a DRI manufacturer.

(9) **MCF.** The volume of gas, measured in units of one thousand cubic feet, using the same temperature, pressure, and heating value as the gas reported on the producer's monthly severance tax returns.

(10) **NET PRESENT VALUE.** Discounted present value, determined as of plant completion, at an interest rate of 6% per annum, of reductions in the cost of gas as described in subsection (e)(8) realized by a DRI manufacturer with respect to a DRI plant.

(11) **PERSON IN CHARGE OF PRODUCTION OPERATIONS.** The person in charge of the production operations, as such term is used in Section 40-20-3.

(12) **PLANT COMPLETION.** The date, as certified to the department by the DRI manufacturer, that a DRI plant is completed.

(13) **REPORTING PERIOD.** The period of time with respect to which severance taxes are calculated, returns are filed, and severance taxes are periodically paid, being each calendar month under current law.

(14) **SEVERANCE TAX.** The annual privilege tax levied by Section 40-20-2 on the production or severance of gas and the tax levied by Section 9-17-25 on natural gas produced for sale, transport, storage, profit or for use from any well or wells in the state.

(15) **SEVERANCE TAX CREDIT.** For any reporting period, 7.4% of the deemed taxable value multiplied by the gas consumption volume.

(16) **TAXPAYER.** Any producer or person in charge of production operations or any other person that is otherwise required to deduct, withhold, pay, or account for severance tax on gas produced and sold to an intermediate supplier or a DRI manufacturer, provided that with respect to any reporting period, such taxpayer -

(i) Is obligated to pay severance tax, or would be so obligated but for the provisions of this section; and

(ii) Has entered into an agreement with a DRI manufacturer and/or an intermediate supplier, if applicable, to reduce the cost of gas sold by the taxpayer to the DRI manufacturer or, if applicable, the intermediate supplier by an amount equal to the severance tax credit for such reporting period.

“(c) **CREDITS.** With respect to any DRI plant owned by a DRI manufacturer, a taxpayer shall be allowed a credit against severance tax otherwise owed with respect to the applicable reporting period equal to the severance tax credit. With respect to any DRI plant, this credit shall commence on the later of (i) the effective date of this act or (ii) plant completion, and shall continue until the net present value of the cost reductions of gas to the DRI manufacturer described in subsection (e)(8) shall equal the lesser of (i) 4% of the capital cost of the DRI plant or (ii) \$4,700,000.

“(d) CERTIFICATE. Upon request by a DRI manufacturer, the department shall provide the DRI manufacturer with a certificate, which shall be numbered and shall state (i) the lesser of (A) 4% of the capital cost of the DRI plant or (B) \$4,700,000, as appropriate, as certified to the department by the DRI manufacturer, and (ii) the completion date of the DRI plant certified by the DRI manufacturer to the department.

“(e) RETURNS. Any taxpayer claiming the severance tax credit for a reporting period shall file a schedule with its severance tax returns for such reporting period stating the following:

- (1) The number assigned by the department to the DRI plant.
- (2) The name of the DRI manufacturer.
- (3) The name of the intermediate supplier, if any.
- (4) The amount of gas, measured in mcf, supplied by the taxpayer to the DRI manufacturer or the intermediate supplier, as applicable.
- (5) The gas consumption volume certified to the taxpayer by the DRI manufacturer.
- (6) The deemed taxable value of the gas.
- (7) The amount of the severance tax credit.
- (8) A certification that the cost of the gas sold to the DRI manufacturer or intermediate supplier, as applicable, has been reduced by an amount equal to the severance tax credit.
- (9) A certification that the severance taxes calculated by the taxpayer have been determined on the deemed taxable value of the gas consumption volume without regard to the reduction in cost described in subsection (e)(8), all in accordance with Subsection (h).
- (10) A certification signed by an officer of the DRI manufacturer under oath, stating -
 - (i) the lesser of (A) the amount of gas consumed by the DRI manufacturer in the DRI plant and (B) the amount of gas supplied to the DRI manufacturer by the taxpayer or intermediate supplier, as applicable as certified by the DRI manufacturer to the taxpayer.
 - (ii) the dates and amounts of the cost reduction in gas otherwise subject to Alabama severance tax liability realized by the DRI manufacturer with respect to the DRI plant by virtue of the severance tax credit from plant completion through the end of the severance tax period in question;
 - (iii) the net present value of the deemed taxable value reductions to the end of the severance tax period in question;

(iv) a certification that a cost reduction in an amount equal to the severance tax credit has been or has been agreed to be given over to the DRI manufacturer or to the intermediate supplier and from the intermediate supplier to the DRI manufacturer, if applicable; and

(v) The name of the intermediate supplier.

(11) The tax credit will be reported by the taxpayer as a one line reduction of the total severance taxes payable on the Department of Revenue, Sales, Use & Business Tax Division, Oil and Gas Offshore Producer's Tax Return forms, designated "O&G Offshore-1" and "O&G Production - 1" The taxpayer will not be required to report the tax credit on any other Department of Revenue Sales, Use & Business Tax Division forms, schedules, supplements, or worksheets.

(12) No additional forms will be required to be filed by the taxpayer with the Department of Revenue Sales, Use & Business Tax Division other than the schedule provided for in this Subsection (e).

"(f) MULTIPLE TAXPAYERS OR INTERMEDIATE SUPPLIERS. Should a DRI manufacturer or intermediate supplier acquire gas from more than one producer or person in charge of production that is otherwise subject to severance taxes, the DRI manufacturer may designate one or more than one such producer or person in charge of production as the taxpayer and may allocate gas consumption volume certified to the taxpayer by the DRI manufacturer among all such designated persons on any basis elected by the DRI manufacturer, provided, however, that the gas consumption volume allocated to any taxpayer in the applicable reporting period shall not exceed the lesser of (a) the amount of gas subject to severance tax supplied by the taxpayer during the reporting period to the DRI manufacturer or intermediate supplier, or (b) the amount of gas which the intermediate supplier has received from the taxpayer and which is otherwise subject to Alabama severance tax liability during the reporting period. Should a DRI manufacturer acquire gas from more than one intermediate supplier, the DRI manufacturer may allocate gas consumption volume among all such intermediate suppliers on any basis elected by the DRI manufacturer, provided, however, that the gas consumption volume allocated to any intermediate supplier in any reporting period shall not exceed (a) the lesser of the amount of gas supplied by the intermediate supplier to the DRI manufacturer during the reporting period or (b) the amount of gas the intermediate supplier received from the taxpayer, which amount is otherwise subject to the severance tax.

"(g) EFFECT ON ALLOCATION AND DISTRIBUTION. The amount of the severance tax credit shall be charged against the

net amount of tax revenues payable to the state's general fund under Sections 9-17-31 and 40-20-8 and shall not reduce the amount of severance tax revenues allocated and distributed to any county, municipality, school board, or custodian of school funds.

“(h) **NO EFFECT ON SEVERANCE TAX BASE.** In determining the amount of severance tax liability for any reporting period, no taxpayer shall reduce the taxable value of gas by the amount of the severance tax credit or the cost reduction to the DRI manufacturer or intermediate supplier, as applicable, resulting from the severance tax credit, but rather, the severance tax credit shall be allowed and calculated only after determination of the amount of the severance tax otherwise payable for the reporting period and before any cost reduction under this section.”

Section 2. The provisions of this act shall expire as to DRI plants having a completion date after September 30, 2008, unless the provisions of this act shall be extended by further act of the Legislature.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. All laws and parts of law which conflict with this act are hereby repealed.

Section 5. This act shall be construed liberally in favor of the DRI manufacturer, for the purpose of assuring that any qualifying DRI manufacturer receives the benefit of the cost reduction described in this act.

Section 6. The act shall become effective the first day of the month following three calendar weeks after its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 14, 1998

Time: 9:00 A.M.

Act No. 98-286

H. 788 – Rep. McClammy

AN ACT

Relating to Montgomery County, prohibiting an alcoholic beverage wholesale licensee from refusing to sell to a retail licensee or to provide services to a retail licensee if such services are provided to other retail licensees in the county; and providing certain civil remedies.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) This act shall only apply to specified licensees of the Alcoholic Beverage Control Board operating in Montgomery County.

(b) The purpose of this act is to regulate the liquor traffic in Montgomery County pursuant to Section 104 of the Constitution of Alabama of 1901.

Section 2. No holder of a wholesaler license issued by the Alcoholic Beverage Control Board shall refuse to sell to a holder of a retail license issued by the Alcoholic Beverage Control Board or to provide a service to a holder of a retail license, if the same service is provided to other holders of a retail license.

Section 3. (a) A person or business entity may bring an action for a declaratory judgement for a determination of any controversy under this act.

(b) A person or business entity, ~~upon proper application to a court,~~ may obtain injunctive relief against any violation of this act.

(c) These remedies are not exclusive and this act shall not be construed as abolishing any other available cause of action.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 5. All laws or parts of laws which conflict with this act are repealed.

Section 6. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 9:01 A.M.

Act No. 38-267

H. 472 – Rep. Newton (C)

AN ACT

Relating to Butler County; to authorize the Butler County Commission to levy and collect additional ad valorem tax of three mills, for fire protection services; to provide for the distribution of the fee to qualified volunteer and paid fire departments; to provide for the collection and accounting for the fee; and to provide for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. The provisions of this act shall apply to Butler County.

Section 2. The Legislature declares that all fire departments are organizations that are public in nature and serve to protect the health, safety and welfare of the citizens of the county.

Section 3. In addition to any ad valorem tax levied, and pursuant to subsection (f) of Amendment No. 373 to the Constitution of Alabama of 1901, the County Commission of Butler County is authorized, subject to the election prescribed in this act, to levy and collect an additional ad valorem tax of three mills on each dollar of assessed value of taxable property located in the county, only for the purpose of providing fire protection in Butler County.

Section 4. The ad valorem tax levied herein shall be levied, collected, administered, and enforced at the same time, in the same manner, and under the same requirements and laws as state ad valorem taxes. To offset the cost of assessing and collecting the tax, two percent of the amount collected annually shall be paid to the tax assessor of the county, and two percent of the amount collected annually shall be paid to the tax collector of the county. The remaining proceeds collected during the year shall be paid into the county general fund. Within thirty days after payment into the county general fund, the county commission shall pay the funds to the Butler County Association of Volunteer Fire Departments, hereinafter referred to as the county association. The county association shall distribute 46 percent of the funds to the Greenville Fire Department and the remaining 54 percent will be distributed equally among the qualified volunteer fire departments providing fire protection in Butler County.

Section 5. (a) A qualified volunteer fire department is one which is in good standing with the county association, is incorporated, and has a Class 9, or better, Insurance Service Office (I.S.O.) rating, and which maintains such Class 9 I.S.O. classification or better. Non-qualified departments shall become qualified by meeting the following requirements:

- (1) Obtain good standing from the county association.
- (2) Become incorporated as non-profit organizations within one year following the effective date of this act or following founding, whichever is later.
- (3) Receive a Class 9 I.S.O. rating or better within two years after date of incorporation or following the effective date of this act, whichever is later.

(b) Any department seeking to meet the above requirements within the respective time limits prescribed shall temporarily participate in the distribution of proceeds until becoming a qualified department. If a department fails to meet any requirement within the time allowed, the department shall have no further participation in the funds until such time as each respective requirement is met. It is provided that no new volunteer fire departments will be funded within Butler County without the prior approval of the county association and the county commission.

Section 6. Funds disbursed to fire departments pursuant to this act shall be expended only for fire protection services, including, but not limited to, training, supplies, buildings, equipment, capital improvements, insurance, professional services and dues. The funds shall not be expended for food, drink, social activities or fund raising activities. After receiving the funds, the departments shall keep accurate records to verify that the funds are properly expended. By September 15th of each year, the departments shall file a report with the county association detailing the expenditure of all funds during the previous twelve months and setting out a schedule of all proposed projects. The filing shall account for all unspent funds and whether any unspent funds have been obligated. Unspent funds that have not been obligated, which exceed the amount of total receipts paid to the department for the prior year from this tax, shall be returned to the county association for redistribution equally among the other qualified volunteer fire departments. The county association shall supply the accounting forms to each department. A copy of the year-end report shall also be filed by the department with the county commission. Upon dissolution or abandonment of any fire department, any remaining funds derived from this act or any assets purchased with any funds derived from this act shall be transferred to the county association.

Section 7. The personnel of fire departments shall not be considered as employees, servants or agents of the county and the members of the county commission and the employees of the county shall not be liable in either their official capacity or in a private capacity for the actions of said personnel of fire departments.

Section 8. (a) A referendum shall be held in Butler County on the same date as the first general election is held following the passage of this act. On the ballot the question shall be presented substantially as follows: "Do you favor the provisions of Act No. ___, which levies an additional three mill ad valorem tax in Butler County and which distributes the net proceeds of said tax for fire protection services to qualified volunteer and paid fire departments in Butler County? Yes ___ No ___."

(b) If a majority of the voting, qualified electors, in Butler County vote "Yes", the provisions of this act shall thereupon become effective. If a majority vote "No", the provisions of this act shall become invalid and shall have no further effect of law.

Section 9. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 14, 1998

Time: 5:50 P.M.

Act No. 98-288

H. 667 – Rep. Flowers

AN ACT

Relating to Pike County; authorizing the county commission to levy an additional sales and use tax; providing the tax; prescribing penalties and fixing punishment for violation of this act; providing for a referendum; and providing for a termination date.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall only apply to Pike County.

Section 2. As used in this act, state sales and use tax means the tax imposed by the state sales and use tax statutes, including, but not limited to, Sections 40-23-1, 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and 40-23-63 of the Code of Alabama 1975.

Section 3. The County Commission of Pike County may levy, in addition to all other taxes, including, but not limited to, municipal gross receipts license taxes, a one percent privilege license tax against gross sales or gross receipts. Notwithstanding the foregoing, the amount authorized to be levied pursuant to this act shall not be levied against the sale of automobiles, farm machinery, boats, and machinery used for manufacturing, which are exempt from the levy authorized by this act.

The gross receipts of any business and the gross proceeds of all sales which are presently exempt under the state sales and use tax statutes are exempt from the tax authorized by this act.

Section 4. The tax levied by this act shall be collected by the State Department of Revenue or the county commission or other entity which the county commission has contracted with to collect the taxes at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department or other entity a report in the form prescribed by the department. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied by this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the

time of filing the report. All reports filed with the department or other entity under this section shall be available for inspection by the county commission, or its designee.

Section 5. Each person engaging or continuing in a business subject to the tax levied by this act, shall add to the sales price or admission fee and collect from the purchaser or the person paying the admission fee the amount due by the taxpayer because of the sale or admission. It shall be unlawful for any person subject to the tax to fail or refuse to add to the sales price or admission fee and to collect from the purchaser or person paying the admission fee the amount required to be added to the sale or admission price. It shall be unlawful for any person subject to the tax levied by this act to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

Section 6. The tax levied by this act shall constitute a debt due Pike County. The tax, together with any interest and penalties, shall constitute and be secured by a lien upon the property of any person from whom the tax is due or who is required to collect the tax. The department or other entity shall collect the tax, enforce this act, and have and exercise all rights and remedies that the state or the department has for collection of the state sales and use tax. The department or other entity may employ special counsel as is necessary to enforce collection of the tax levied by this act and to enforce this act. The department or other entity shall pay the special counsel any fees it deems necessary and proper from the proceeds of the tax collected by it for Pike County.

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax levied under this act. The State Commissioner of Revenue and the department or other entity shall have and exercise the same powers, duties, and obligations with respect to the tax levied under this act that are imposed on the commissioner and department by the state sales and use tax statutes. All provisions of the state sales and use tax statutes that are made applicable by this act to the tax levied under this act, and to the administration and enforcement of this act, are incorporated by reference and made a part of this act as if fully set forth herein.

Section 8. The department or other entity shall charge Pike County for collecting the tax levied under this act in an amount or

percentage of total collections as may be agreed upon by the commissioner or the entity and the Pike County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county or an amount as otherwise provided in the contract. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Pike County for that month. The Commissioner of Revenue or other entity shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department or entity on or before the first day of each successive month. The commissioner or entity shall certify to the State Comptroller the amount collected and paid into the State Treasury or otherwise for the benefit of Pike County during the month immediately preceding the certification. The State Comptroller shall issue a warrant each month payable or the entity shall remit monthly or as otherwise agreed upon to the County Treasurer of Pike County in an amount equal to the certified amount which shall be paid into the county general fund to be used as follows:

- (1) 16.0 percent to the Pike County Board of Education.
- (2) 10.0 percent to the Troy City Schools.
- (3) 49.5 percent to the Pike County Commission.
- (4) 19.0 percent to the City of Troy, Alabama.
- (5) 3.5 percent to the City of Brundidge, Alabama.
- (6) 1.0 Percent to the Town of Goshen, Alabama.
- (7) 1.0 percent to the Town of Banks, Alabama.

Section 9. Sections 1 to 8, inclusive, of this act shall become operative only if approved by a majority of the qualified electors of Pike County who vote in an election to be held on the day of the June 1998 primary election. The notice of the election shall be given by the judge of probate, and the election shall be held, conducted, and the results canvassed in the manner as other county elections. The question shall be, "Do you favor the adoption of Act _____, of the 1998 Regular Session of the Alabama Legislature which authorizes the County Commission of Pike County to levy an additional sales and use tax? Yes () No ()." The county shall pay any costs and expenses not otherwise reimbursed by a governmental agency which are incidental to the election. If a majority of the votes cast in the election are "Yes," Sections 1 to 8, inclusive, of this act shall become operative immediately. If the majority of the votes are "No," this act shall be repealed and shall have no further effect. The Judge of Probate of Pike County shall certify the results of the election to the Secretary of State.

Section 10. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law and shall terminate 30 years after its effective date.

Approved April 14, 1998

Time: 5:51 P.M.

Act No. 98-289

H. 586 – Rep. Black (L)

AN ACT

Relating to Sumter County; providing for an additional expense allowance for the Sumter County Sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Sumter County shall be entitled to receive an additional expense allowance in the amount of one thousand two hundred fifty dollars (\$1,250) per month to be paid out of the county general fund. This expense allowance shall be in addition to any and all other compensation, salary, and expense allowances provided for by law.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 5:52 P.M.

Act No. 98-290

H. 189 – Reps. Clouse, Carothers,
Seibenhener and Baker

AN ACT

To amend Section 11-44E-46 of the Code of Alabama 1975, relating to any Class 5 municipality adopting the Mayor/Commission/City Manager form of government; to provide for a special election to fill a vacancy in the membership of the commission under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-44E-46 of the Code of Alabama 1975, is amended to read as follows:

“§11-44E-46.

“(a) Whenever a vacancy in the office of commissioner shall occur by reason of death, resignation, removal, or any other cause, and the remainder of the term is six months or less, the remaining members shall, by a majority vote, appoint a commissioner to serve the remainder of the vacated term, who shall serve until a successor has been elected and qualified.

“(b) If the remainder of the vacated term is more than six months, the remaining members shall, by a majority vote, appoint a commissioner to serve until a successor has been elected and qualified as hereinafter provided. The interim commissioner selected shall receive the same rate of pay and allowances provided for the commissioner whose vacated office he or she fills. The mayor shall within 10 days after the occurrence of the vacancy, call for a special election to be held in the district of the vacancy on a Tuesday not less than 60 days and not more than 120 days from the date the vacancy occurred. If a regular or special municipal election is scheduled in the municipality within not less than 60 days nor more than 120 days after the date the vacancy occurred, then the election for a commissioner to fill this vacancy shall be held at the regular or special municipal election. Notice of the election shall be given by publication in a newspaper of general circulation and published in the city. The method, procedure, and requirements of qualifying, voting, and determining the successful election of the commissioner shall be the same as is provided herein relative to the election of a commissioner at regular elections, except that statements of candidacy shall be filed within 10 days after notice of election has been given. The commissioner chosen at the election shall take office no later than the next Monday following election and shall hold office for the unexpired term until a successor is elected and qualified.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 14, 1998

Time: 5:53 P.M.

Act No. 98-291

H. 729 – Reps. Willis, McMillan, Laird, Hogan, McClammy, Holmes, Millican, Dolbare, Clouse, Boyd, Seibenhener, Johnson (R), Ford (J), Newton (C), Collins, Turnham, Venable, Buskey,

Fuller, Hammett, Pringle, Carter, Clark (J), Payne, Morton, Minnifield, Hilliard, Curry, Wren, Jackson, Spratt, McDaniel, Murphree, Graham, Smith, Hill, Knight (A), Letson, Hawk, Carns, Allen, Guin, Burke, Box, Parker (T), Carothers, Layson, Hamilton, Knight (J), Sims, McKee, Vance, Gaston, Crigler, Mitchell, Bandy, Maull, Flowers, Turner, Hooper and Page

AN ACT

To provide for civil immunity for those persons donating fire control property to the Alabama Forestry Commission for use by volunteer fire departments.

Be It Enacted by the Legislature of Alabama:

Section 1. (2) As used in this section, the term "fire control or fire rescue equipment" includes, but is not limited to, a motor vehicle, fire fighting tools, protective gear, breathing equipment, and other vehicles, supplies, and tools used in fire fighting or fire rescue.

(b) Any person, corporation, partnership, association, or governmental entity may donate or give away used or obsolete fire control or fire rescue equipment to the Alabama Forestry Commission for its use or for distribution to certified volunteer fire departments. Any person, corporation, partnership, association, or governmental entity that donates fire control or fire rescue equipment shall not be liable for civil damages for personal injury, property damage, or death resulting from a defect in the equipment, if the property was donated in good faith and the defect was unknown to the person making the donation. The Alabama Forestry Commission and its commissioners and other officers and employees shall not be liable for civil damages for personal injury, property damage, or death resulting from a defect in equipment sold, loaned, donated, or otherwise made available in good faith by the commission to certified volunteer fire departments pursuant to this section. A breathing apparatus that is donated to the commission shall be recertified to the manufacturer's specifications by a technician certified by the manufacturer before it is made available to a volunteer fire department. Any cost incurred by the commission in recertifying a breathing apparatus shall be reimbursed to the commission by the volunteer fire department which received the breathing apparatus.

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 5:54 P.M.

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 5:54 P.M.

Act No. 98-292

H. 742 – Reps. Penry, McMillan,
Warren and White

AN ACT

Relating to Baldwin County; amending Section 4 of Act 97-872, H.55 of the 1997 Special Session (Acts 1997, p. 224), relating to the sale of alcoholic beverages on Sunday and areas within a county commission district that may be defined as referendum areas, to make a typographical correction in the description of the areas for referendums when a voting precinct includes incorporated and unincorporated areas of the county, to clarify that the county commission would only designate unincorporated areas of the county.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 4 of Act 97-872, H. 55 of the 1997 Special Session (Acts 1997, p. 224) is hereby amended to read as follows:

Section 4. “Section 4. (a) Any county commission district, or areas within a district to be defined by the county commission, may hold a referendum administered by the Judge of Probate of Baldwin County for the approval of the sale of alcoholic beverages for consumption on the licensed selling premises within those areas on Sunday under the same license authority applicable to other days of the week by one of the following procedures:

“(1) A resolution of the county commission.

“(2) A petition for a referendum certified by the Judge of Probate of Baldwin County consisting of at least 10 percent of the registered voters at any date within six months prior to the certification of the petition in the county commission or the defined areas of that county commission district.

“(b) County commission districts shall be those areas defined by law at the time of the referendum. Subsequent changes in county commission district boundaries shall not affect the results of any referendum held prior to those changes in any county commission district or area and the results of any referendum shall remain in place for those areas.

“(c) Areas within a particular county commission district to be defined by the county commission as a referendum area shall coincide with county voting precinct boundaries and shall not be

smaller than an individual precinct, except where an individual precinct contains incorporated areas, in which case that portion of the precinct which is unincorporated shall constitute all or part of the referendum area to be defined by the county commission.

“(d) If the county commission calls a district-wide referendum, notification shall be delivered to the governing bodies of all incorporated areas within that district within five working days.

“(e) Incorporated areas may be excluded from any referendum by resolution of the governing bodies of those areas delivered to the county commission within 21 days from the notification of the call for a referendum.

“(f) Where these procedures result in a district-wide referendum, if a majority of voters in any incorporated area approve the sale of alcoholic beverages for consumption on the licensed selling premises on Sunday under the same license authority applicable to other days of the week, then the sale of alcoholic beverages for consumption on the licensed selling premises shall be permitted in those areas incorporated regardless of the total district’s vote.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 14, 1998

Time: 5:55 P.M.

Act No. 98-293

H. 149 – Reps. McDaniel and Hawk

AN ACT

Relating to Marshall County and the Twenty-seventh Judicial Circuit; establishing the “District Attorney’s Fund” and providing for the distribution of the fund.

Be It Enacted by the Legislature of Alabama:

Section 1. All district attorney’s fees taxed as costs and collected in all criminal cases in Marshall County and the Twenty-seventh Judicial Circuit shall be paid into a separate fund in a depository designated by the district attorney and shall be known as the “District Attorney’s Fund.” The funds shall be used and expended as the district attorney may provide. The present monies and assets designated in the county treasury for the “District Attorney’s Fund” shall be transferred into the “District Attorney’s Fund” as established by this section. The payment of district attorney fees shall be made by the tenth day of each month following collection as directed by the district attorney.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 5:56 P.M.

Act No. 98-294

H. 536 – Rep. Newton (C)

AN ACT

Relating to Crenshaw County, authorizing the Crenshaw County Commission to grant additional exemptions to the mandatory solid waste collection program to households with income less than 75 percent of the federal poverty level.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only to Crenshaw County.

Section 2. The Crenshaw County Commission may grant an additional exemption to the mandatory solid waste collection program to individuals in households whose total income does not exceed 75 percent of the federal poverty level.

Section 3. The Crenshaw County Commission may by resolution or ordinance adopt rules and regulations to implement Section 2.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 5:57 P.M.

Act No. 98-295

H. 631 – Reps. Hill, Rogers (M), Letson, Laird, Black (M), Guin, Minnifield, Drake, Robinson, Hooper, Knight (A), Ford (J), Smith, Melton, Venable, White, Boyd, Allen and Hayden

AN ACT

To provide that justices of the Supreme Court, judges of the courts of appeals, circuit court judges, and district court judges may retire with 25 years of service, regardless of age; to further provide for the calculation of benefits; and to provide that justices or judges with 24 years of creditable service could purchase up to one year of additional service.

Be It Enacted by the Legislature of Alabama:

Section 1. This act does not apply to anyone who assumed office as a justice of the Supreme Court, a judge of the Court of Civil Appeals, a judge of the Court of Criminal Appeals, or a circuit judge before July 30, 1979. This act also does not apply to anyone who assumed office as a district judge before July 30, 1979, and later assumed or assumes office as a justice of the Supreme Court, a judge of the Court of Civil Appeals, a judge of the Court of Criminal Appeals, or a circuit judge.

Section 2. Notwithstanding Section 12-18-40 or 12-18-55, Code of Alabama 1975, any justice of the Supreme Court, any judge of the Court of Civil Appeals, any judge of the Court of Criminal Appeals, any circuit judge, or any district judge who has served for not less than 25 years on any one or more of such courts or has 25 years of creditable service in the Judicial Retirement System shall be eligible to retire under Chapter 18, Title 12, Code of Alabama 1975, regardless of age.

Section 3. With the exception of justices of the Supreme Court and judges of the appellate courts, circuit courts, and district courts who assumed office prior to July 30, 1979, and who are exempted from Section 12-18-40, Code of Alabama 1975, and this act, the retirement pay or benefits of any justice or judge qualifying for service retirement pursuant to this act shall be based and computed on the final salary received from the state at the time of his or her retirement in accordance with the percentage rate now prescribed by law. The retirement benefits of justices and judges who have 25 years of creditable service based on nonjudicial service which has been transferred to the Judicial Retirement System shall be calculated pursuant to Sections 12-18-111, 12-18-112, or 12-18-113, Code of Alabama 1975, as applicable.

Section 4. Any justice of the Supreme Court, judge of the Court of Civil Appeals, judge of the Court of Criminal Appeals, circuit judge, or district judge who has 24 years of creditable service in the Judicial Retirement Fund of Alabama may elect to purchase credit in the Judicial Retirement Fund of Alabama for up to one additional year. Any justice or judge eligible to purchase such credit shall be awarded such credit provided that the justice or judge shall pay into the Judicial Retirement Fund of Alabama a sum of money which is equal to the annual contribution of both the justice or judge and the annual contribution of the state into the fund at the time of election to purchase the credit multiplied by each year or fraction thereof of service credit claimed. The election and payment shall be made to the Secretary-Treasurer of the Employees' Retirement System of Alabama, administrator of the Judicial Retirement Fund.

Section 5. The provisions of this act are cumulative and supplemental to other statutes or laws relating to judicial retirement

and shall not be construed to repeal any law or part of law not directly in conflict herewith. Nothing herein shall be construed to eliminate, reduce, or modify any entitlement or benefit to which a justice or judge is now eligible or would be eligible under the retirement laws existing and in effect before the effective date of this act.

Section 6. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 5:58 P.M.

Act No. 98-296

H. 687 – Rep. Burke

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Fort Payne in DeKalb County.

Be It Enacted by the Legislature of Alabama:

Section 1. That the boundary lines and corporate limits of the City of Fort Payne in DeKalb County are hereby altered, rearranged and extended so as to include within the corporate limits of said City, in addition to the lands now included, all of the following territory, to-wit:

TRACT I:

Begin at the SW corner of Section 20, Township 6 S, Range 9 E and run northeasterly along the existing Fort Payne corporate limit 2080 feet more or less to the centerline of DeKalb County Road No. 610, (Wooten Gap Road).

Thence a strip of land 45 either side of the centerline of said County Road 610, (Wooten Gap Road), and run westerly in a meandering fashion with the centerline of said County Road to the point where DeKalb County Road 610 (Wooten Gap Road) intersects with DeKalb County Road 609 (Sand Valley Road).

Said Tract I shall be 500 feet in width, lying 250 feet either side of centerline of said roadway.

TRACT II:

Commencing at the SW corner of the NW 1/4 of the SW 1/4 of Section 19, Township 6 South, Range 9 East, Run N 0 deg. 59' E with the West line of said section, 833.30 ft. to the easterly brow of Sand Mountain, thence with said brow line, N 49 deg. 46' E, 68.80 ft. for a point of beginning; thence S 53 deg. 25' E, 1,773.26 ft to the center of

Sand Valley Road; thence with the center of Sand Valley Road, a chord of which is approximately N 43 deg. 20' E, 4,320.00 ft., more or less; thence continue with Sand Valley Road, chords of which are as follows: N 55 deg. 19' 35" E, 37.00 ft.; N 59 deg. 11' 16" E, 101.15 ft.; N 46 deg. 21' 09" E, 80.58 ft.; N 44 deg. 59' 06" E, 81.52 ft.; N 46 deg. 20' 17" E, 87.82 ft.; N 42 deg. 48' 01" E, 90.63 ft.; N 40 deg. 34' 30" E, 93.29 ft.; N 35 deg. 37' 04" E, 218.09 ft.; N 35 deg. 36' 58" E, 77.15 ft.; N 31 deg. 25' 26" E, 214.57 ft.; N 33 deg. 38' 00" E, 72.90 ft.; N 37 deg. 51' 14" E, 145.19 ft.; N 43 deg. 30' 05" E, 74.90 ft.; N 57 deg. 16' 17" E, 72.73 ft.; S 89 deg. 52' 28" E, 50.18 ft.; S 70 deg. 21' 42" E, 91.25 ft.; S 55 deg. 59' 09" E, 239.78 ft. to the intersection of Sand Valley and Wooten Gap Road; thence with the centerline of Wooten Gap Road as follows: N 28 deg. 44' 55" W, 172.64 ft.; N 11 deg. 36' 45" E, 422.27 ft.; N 30 deg. 29' 37" E, 249.07 ft.; thence leave said road N 62 deg. 16' 13" W, 342.80 ft.; thence S 42 deg. 52' 00" W, 4.98 ft.; thence N 47 deg. 08' W, 515.75 ft.; thence South, 33.10 ft.; thence West, 200.00 ft.; thence North, 150.00 ft.; thence East, 200.00 ft.; thence South 35.00 ft.; thence S 47 deg. 08' E, 81.90 ft.; thence North, 305.60 ft. to the NE corner of the SE 1/4 of the SE 1/4 of Section 18, Township 6 South, Range 9 East; thence West with the north line of the SE 1/4 of the SE 1/4 of Section 18, 850.00 ft. more or less, to the easterly brow of Sand Mountain, thence southwest-erly with the brow, 6,450.00 ft., more or less, to the point of beginning.

Said tract of land lying in Sections 17, 18, 19 and 20 in the Township 6 South, Range 9 East, DeKalb County, Alabama, and containing 253.50 acres, more or less.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Fort Payne is on file in the office of the Judge of Probate in DeKalb County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 6:00 P.M.

Act No. 98-297

H. 26 – Reprs. Penry, McMillan, Warren
and Starkey

AN ACT

To provide immunity from civil liability to medical professionals who volunteer their services at free medical clinics without compensation; to require the posting of a notice at the free medical clinic advising patrons of the immunity; to provide that acceptance by a free medical clinic of a contribution made by a person receiving services at

the clinic does not constitute a waiver of the immunity; and to provide that an established act or omission of a volunteer medical professional shall be the responsibility of the free medical clinic under the doctrine of "respondeat superior."

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall be called the "Volunteer Medical Professional Act."

Section 2. The Legislature finds that the willingness of medical professionals to volunteer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers.

The Legislature further finds that volunteer medical professionals make a valuable contribution to the health and welfare of the people of the state and that it is in the state's best interest to encourage medical professionals to volunteer their services for the good of their communities, while at the same time providing a reasonable basis for redress of claims which may arise relating to those activities.

Section 3. For purposes of this act, the following words shall have the following meanings:

(1) **ESTABLISHED FREE MEDICAL CLINIC.** An organized, community-based program providing medical care, without charge to individuals unable to pay for it, and which is limited to care that does not require the services of a licensed hospital or ambulatory surgical treatment center, and care that does not include the use of general anesthesia or require an overnight stay in a health care facility.

(2) **MEDICAL PROFESSIONAL.** A person licensed by the Alabama Medical Licensure Commission established under Section 34-24-310, Code of Alabama 1975, or licensed to practice the treatment of human ailments in any other state or territory of the United States; or a person licensed by the Alabama Board of Nursing established under Section 34-21-2, Code of Alabama 1975; or a person licensed by the Board of Chiropractic Examiners established under Section 34-24-140, Code of Alabama 1975; or a person licensed by the Alabama Board of Optometry established under Section 34-22-20, Code of Alabama 1975; or a person licensed by the Board of Dental Examiners established under Section 34-9-1 through 34-9-65, Code of Alabama 1975. Medical Professional shall not include medical students, interns, or residents while they are completing training, necessary for a medical license or certification as a specialist in a particular medical field, in a governmental or state institution.

Section 4. (a) A medical professional, who, in good faith, provides, without fee or compensation, medical treatment, diagnosis, advice, or nursing services as a part of the services of an established

free medical clinic, shall not be liable for civil damages as a result of his or her acts or omissions in providing the medical treatment, diagnosis, advice, or nursing services, unless the act or omission was the result of the licensed healthcare provider's willful or wanton misconduct.

(b) Subsection (a) does not apply to a particular case unless the free medical clinic has posted in a conspicuous place on its premises an explanation of the immunity from civil liability provided by this act.

(c) The immunity from civil liability provided under subsection (a) also applies to medical professionals that provide, without fee or compensation, further medical treatment, diagnosis, advice, or nursing services to a patient upon referral from an established free medical clinic.

(d) Acceptance by a free medical clinic of a contribution made by a person receiving services at the clinic shall not constitute a waiver of immunity as provided in this act.

(e) In any suit against a free medical clinic for civil damages based solely upon the negligent act or omission of a volunteer medical professional, proof of such act or omission shall not be sufficient to establish the responsibility of the clinic under the doctrine of "respondeat superior," notwithstanding the immunity granted to the volunteer medical professional with respect to any act or omission included under subsection (a).

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 14, 1998

Time: 6:01 P.M.

Act No. 98-298

S. 343 – Senator Windom

AN ACT

Relating to Mobile County; to provide for the assessment and collection of additional court costs in the district and circuit court of the county; and to provide for the use of the funds for the Mobile County Community Corrections Center.

Be It Enacted by the Legislature of Alabama:

Section 1.

(a) In Mobile County, in any case in which court costs are assessed in the circuit court of the county, both civil and criminal cases, there shall be assessed and collected by the clerk as other costs and charges are collected an additional court cost in the amount of ten dollars (\$10).

(b) In the district court of the county, there shall be assessed and collected by the clerk as other court costs and charges are collected an additional court cost in the amount of seven dollars (\$7).

Section 2. The additional court costs assessed and collected by the clerk pursuant to Section 1 shall be remitted monthly to the General Fund of Mobile County to be used for alternative corrections programs.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on April 15, 1998 without approval by the Governor.

Act No. 98-299

H. 642 – Reps. Hooper, Flowers, McKee, Gaston, Black (M), Dean, Guin, Gipson, Rogers (M), Knight (A), Carns, Townsend, Payne, Curry, Pringle, Hawkins, Hawk, Dukes, Morton, Smith, Galliher, Parker (P), Carter, Ford, Burke, Turnham, White, Ford (J), Haney, Warren, Parker (T), Newton (C), Venable, Baker, Laird, Collins, Sanderford, Jorgensen, Johnson (E), Lindsey, Allen, Murphree, McMillan, Clouse, Gaines, Sanderson, Robinson, Vance, Letson, Wren, Willis, Sims, Millican, Johnson (R), Hamilton, Morrow, Thomas (D), Hill, Seibenhener, McDaniel and Fuller

AN ACT

To amend Section 40-18-25, Code of Alabama 1975, relating to income taxation of estates and trusts to conform Alabama income tax treatment of individual retirement accounts described in 26 U.S.C. Section 408A and 26 U.S.C. Section 530 to the tax treatment under federal income tax law.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-18-25, Code of Alabama 1975, is amended to read as follows:

“§40-18-25.

“(a) The tax imposed by this chapter shall apply to the income of estates or of any kind of property held in trust, including:

“(1) Income received by estates of deceased persons during the period of administration or settlement or settlements of the estate.

“(2) Income accumulated in trust for the benefit of unborn or unascertained persons with contingent interests.

“(3) Income held for future distribution under the terms of a will or trust.

“(4) Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct.

“(b) The fiduciary shall be responsible for making the return of income for the estate or trust for which he or she acts. The net income of the estate or trust shall be computed in the same manner and on the same basis as provided in this chapter for individual taxpayers; except, that the deduction for amounts paid or permanently put aside for a charitable purpose shall be allowed to the extent specified in 26 U.S.C. §642(c), relating to amounts paid or permanently set aside for a charitable purpose; and in cases under subdivision (4) of subsection (a) of this section, the fiduciary shall include in the return a statement of each beneficiary's distributive share of the net income, whether or not distributed before the close of the taxable year for which the return is made.

“(c) In cases under subdivisions (1), (2), and (3) of subsection (a) of this section, the tax shall be imposed upon the net income of the estate or trust using the rate schedule in subdivision (1) of Section 40-18-5 and shall be paid by the fiduciary; except, that in determining the net income of the estate of any deceased person during the period of administration or settlement, there may be deducted the amount of any income properly paid or credited to any legatee, heir, or other beneficiary. In such cases the estate or trust shall be allowed the same exemptions as are allowed to single persons under Section 40-18-19, and in such cases the estate or trust created by a person not a resident and an estate of a person not a resident shall be subject to tax only to the extent to which individuals other than residents are liable under subdivision (3) of Section 40-18-14.

“(d) In cases under subdivision (4) of subsection (a) of this section, and in the case of any income of an estate during the period of administration or settlement permitted by subsection (c) to be deducted from the net income upon which tax is to be paid by the

fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his or her distributive share whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his or her net income for the taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his or her distributive share of the net income of the estate or trust for any accounting period of the estate or trust ending within the fiscal year upon the basis of which the beneficiary's net income is computed. In such cases the income of a beneficiary of the estate or trust not a resident shall be taxable to the extent provided in subdivision (3) of Section 40-18-14 for individuals other than residents, but only to the extent that the income of the trust or estate shall arise from sources within the state. For the purpose of determining any income tax due by any nonresident beneficiary of any such trust or estate, the income from intangible personal property shall not be construed to arise from sources within the state merely because the title and ownership of such intangible personal property is vested in a resident fiduciary or trust or estate or the evidence of ownership thereof is located within the state.

“(e) There shall be exempt from taxation imposed by this chapter income of any qualified trust defined in 26 U.S.C. §401 (a), relating to qualified pension, profit sharing, and stock bonus plans; any custodial account, any annuity contract or any contract issued by an insurance company treated as a qualified trust by reason of 26 U.S.C. §401(f), relating to certain custodial accounts and contracts; any individual retirement account, any individual retirement annuity, or any custodial account which is exempt from federal income tax under 26 U.S.C. §408 (e), 26 U.S.C. §408A, or 26 U.S.C. §530, relating to individual retirement accounts; and any retirement bond described in 26 U.S.C. §409, relating to retirement bonds. The foregoing exemption shall not apply to any entity which is not exempt from federal income tax by reason of 26 U.S.C. §502 or 26 U.S.C. §503 and shall not apply to any income which would constitute “unrelated business taxable income” as defined in 26 U.S.C. §512, relating to unrelated business taxable income.

“(f) There shall be exempt from taxation imposed by this chapter income of any trust which is described in Section 501(c) (2), 501(c) (3), 501(c) (9), 501(c) (11), 501(c) (17), 501(c) (20), 501(c) (21), of 26 U.S.C., relating to exemption from tax on corporations, certain trusts, etc. The foregoing exemption shall not apply to any entity which is not exempt from federal income tax by reason of 26 U.S.C. §502, relating to feeder organizations, or 26 U.S.C. §503, relating to requirements for exemption, and shall not apply to any income which would constitute “unrelated business taxable income” as

defined in 26 U.S.C. §512, relating to unrelated business taxable income.

“(g) Distributions from, or rollovers to, individual retirement accounts described in 26 U.S.C. §§408A and 530 shall be taxed to the distributee according to 26 U.S.C. §§408A or 530. The amount actually distributed to any distributee of any other trust described in subsection (e) of this section, any other individual retirement account, individual retirement annuity, individual retirement bond, or custodial account which is treated as an individual retirement account shall be taxable to the distributee in accordance with 26 U.S.C. §72 in the year in which distributed as if it were an annuity the consideration for which is the amount contributed by the employee. Notwithstanding the preceding sentence, distributions which are not included in gross income for federal income tax purposes by reason of the rollover provisions in 26 U.S.C. §402, relating to taxability of beneficiary of employees’ trust, 26 U.S.C. §403, relating to taxation of employee annuities, 26 U.S.C. §408, relating to individual retirement accounts, or 26 U.S.C. §409, relating to retirement bonds, shall not be included in gross income for purposes of this chapter.

“For the foregoing purposes, “the amount contributed by the employee” means:

“(1) Amounts contributed prior to January 1, 1982, by an individual for himself or herself, his or her spouse or both under an individual retirement account, annuity or bond for which no deduction was allowed under Section 40-18-15 or corresponding provisions of prior laws of this state.

“(2) Amounts contributed prior to January 1, 1982, by a person described in Section 40-18-15(a) (12) to a trust described in subsection (e) of this section for which no deduction was allowed under Section 40-18-15 or corresponding provisions of prior laws of this state.

“(3) The amount included in gross income in prior years by the employee, the distributee, his or her predecessor in interest, or the trust by reason of the lack of exemption from the tax imposed by this chapter of a trust, individual retirement account, individual retirement annuity or individual retirement bond to which contributions described in (1) and (2) were made.

“(4) The amount included in gross income by the employee, distributee, or predecessor in interest as a result of a distribution from any other trust, individual retirement plan, individual retirement account, individual retirement bond, or custodial account because the distribution was not excludable from gross income under the second sentence of this subsection when made or was includable pursuant to 26 U.S.C. §408 (m), relating to investment in collectibles treated as distributions.

“(h) The income of a charitable remainder annuity trust or a charitable remainder unitrust, as those terms are defined in 26 U.S.C. §664, relating to charitable remainder trusts, shall be exempt from the tax imposed by this chapter to the extent provided in 26 U.S.C. §664, as in effect on January 1, 1982. Recipients of distributions from charitable remainder unitrust and charitable remainder annuity trusts shall include in gross income the amounts specified in 26 U.S.C. §664(b)(1) and 26 U.S.C. §664(b)(2).

“(i) Contributions to a trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt under subsection (e) of this section shall be included in the gross income of an employee for the taxable year in which the contribution is made to the trust in the case of an employee whose beneficial interest in such contribution is nonforfeitable at the time the contribution is made or if the interest of the employee is not nonforfeitable in such year, the fair market value of the employee’s interest in the trust shall be included in the gross income of the employee in the year in which it becomes nonforfeitable.

“(j) The tax on an electing small business trust, as defined in 26 U.S.C. §1361(e)(1), and the beneficiaries of the trust shall be determined as follows:

“(1) The portion of the trust that consists of stock in one or more Alabama S corporations, as defined in Section 40-18-160, shall be treated as a separate trust. The net income of the separate trust shall be computed including only the items taken into account under Section 40-18-162, gain or loss from the disposition of stock of an Alabama S corporation, and federal income taxes and administrative expenses allocable to the income items treated under this subsection. The net income shall be taxed at the rate of five percent. The separate trust shall not be allowed any personal exemption.

“(2) No item shall be apportioned to any beneficiary of the trust from the separate trust described in subdivision (1) .

“(3) The income taxation of the remainder of the trust that does not own the stock of any Alabama S corporation and its beneficiaries shall be determined under subsections (b), (c), and (d) of this section without regard to the income, gain, deductions, loss, or credits of the separate trust owning stock in one or more Alabama S corporations.

“(k) In the case of a qualified subchapter S trust, as defined in 26 U.S.C. §1361(d), all the items of income, deduction, and credit of the portion of the trust consisting of the stock in an Alabama S corporation shall not be subject to tax under this section but shall be included in computing the net income of the beneficiary of the trust.”

Section 2. This act shall be effective for all taxable years beginning after December 31, 1997, following its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 15, 1998

Time: 8:00 A.M.

Act No. 98-300

S. 564 – Senator McClain

AN ACT

Relating to Jefferson County; to further amend Section 12 of Act 497 of the 1965 Session of the Legislature of Alabama (Acts 1965, p. 717), establishing a retirement system for employees and officers of Jefferson County, Alabama.

Be It Enacted by the Legislature of Alabama:

Section 1. Subsection (a) of Section 12 of Act 497 of the Regular Session of the Legislature of Alabama of 1965 (Acts 1965, p. 717), as last amended by Act 85-808, is further amended to read as follows:

Section 12. (a) Non-Service Connected. Part (1) of subsection (a) of Section 12. Any member who, after having accumulated five (5) years paid membership time, shall become so disabled, either mentally or physically, for any cause except as hereinafter provided, that in the opinion of the Board and the Medical Advisor he is incapacitated for further performance of his duties, shall during the continuance of such disability be entitled to received monthly disability benefits to be determined by the formula as provided under Section 10, above, such formula to be applied as though the disabled employee were entitled to retirement for superannuation at the commencement of the disability; provided, however, that the minimum monthly disability benefit payable under this Part (1) of subsection (a) of Section 12 shall be thirty percent (30%) of the salary the disabled employee was receiving when he became disabled. The provisions of this Part (1) of subsection (a) of Section 12 shall apply to any member who is granted the non-service connected disability benefit in the amount provided for in this Part (1) prior to the adoption of Part (2) of said subsection (a) next following. After Part (2), next following, is adopted, no member shall be granted a non-service connected disability benefit under this Part (1) of subsection (a) of Section 12.

“Part (2) of subsection (a) of Section 12. After the adoption of this Part (2) of subsection (a) of Section 12, any member who, after having accumulated ten (10) years paid membership time, shall become so disabled, either mentally or physically, for any cause except as hereinafter provided, that in the opinion of the Board and the Medical Advisor he is incapacitated for further performance of

his duties, shall during the continuance of such disability be entitled to receive monthly disability benefits to be determined by the formula set forth in (b) of subsection A of Section 10, above, such formula to be applied as though the disabled employee were entitled to retirement for superannuation at the commencement of the disability. Provided, however, such formula amount shall not be reduced below fifty percent (50%) of such superannuation benefit by reason of the age of the disabled member. After Part (3), next following, is adopted, no member shall be granted a non-service connected disability benefit under this Part (2) of subsection (a) of Section 12.

"Part (3) of subsection (a) of Section 12. After the adoption of this Part (3) of subsection (a) of Section 12, any member who, after having accumulated ten (10) years paid membership time, shall become so fully or partially disabled, either mentally or physically, for any cause except as hereinafter provided, that in the opinion of the Board and the Medical Advisor he is incapacitated for further performance of his duties, shall during the continuance of such disability be entitled to receive monthly disability benefits to be determined by the formula as provided under Section 10, above, such formula to be applied as though the disabled employee were to be entitled to retirement for superannuation at the commencement of the disability with the percentage reduction of the benefit based on the number of years from actual eligibility for superannuation retirement, as set out below.

Number of Years From Superannuation Retirement	Reduced Pension on Account of Disability Retirement Before Eligibility for Superannuation Retirement Expressed as a Percentage of Pension which would have been Payable at Date of Retirement if the Member were then Eligible for Superannuation Retirement
1	93%
2	87%
3	82%
4	77%
5	72%
6	68%
7	64%
8	60%
9	57%
10	54%
11 or more	50%

“Part (4) of subsection (a) of Section 12. No disability allowance shall be made hereunder if the use of intoxicating liquor or narcotic drugs, or willful misconduct of the disabled person be the cause of, or substantially contribute to, the disability or the cause of disability be voluntarily and willfully brought about by the disabled person.”

Section 2. The benefit provided by this amendment of Section 12 shall apply only to members of the system hereafter granted disability benefits.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 15, 1998

Time: 9:20 A.M.

Act No. 98-301

H. 42 – Rep. Fuller

AN ACT

To amend Section 12-17-81, Code of Alabama 1975, relating to the compensation of circuit clerks; to increase the compensation of circuit clerks and district clerks.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 12-17-81 of the Code of Alabama 1975, is amended to read as follows:

“§12-17-81.

“(a) For the purposes of this section, the following terms shall have the following meanings:

“(1) ANNIVERSARY DATE. ~~Annually~~, the first Monday after the second Tuesday in January

“(2) PAY PLAN. The pay plan adopted by the Unified Judicial System personnel system, or its successor entity, providing the pay range with steps, as the same may be amended from time to time.

“(3) STATE SALARY. The annual salary of circuit clerks and district clerks payable from the State Treasury.

“(b) Effective January 18, 1999, the annual salary of circuit clerks and district clerks, who first take office by appointment or election on or after January 18, 1999, payable from the State Treasury shall be fixed at step one of the pay plan for Assistant Clerk of the Court of Criminal Appeals. Thereafter, the state salary of circuit clerks and district clerks shall be increased annually, on the anniversary date, by one step on the pay plan until the maximum step authorized by the pay plan is reached. This section shall not diminish any local supplement currently

provided to any circuit clerk or district clerk pursuant to any general or local act; provided further that nothing in this act shall serve to increase any local supplement in effect on the effective date of this act. In no event shall the annual state salary of any circuit clerk or district clerk be diminished by this section.

“(c) Effective January 18, 1999, the state salary payable to circuit clerks and district clerks, who are already serving in office on that date and who have not more than six years of service, shall be an amount equal to step five of the pay plan for Assistant Clerk of the Court of Criminal Appeals. The state salary shall be increased on January 17, 2000, or on the anniversary date of creditable service, to step six of the pay plan. Beginning on the anniversary date in the year 2002, and annually thereafter, the state salary shall be increased in an amount equal to one step in the pay plan until the maximum step authorized by the pay plan is reached.

“(d) Effective January 18, 1999, the state salary payable to circuit clerks and district clerks, who are in office on that date and who have not less than six and not more than 12 years of service, shall be an amount equal to fifty-four thousand dollars (\$54,000), plus one-third of the difference between fifty-four thousand dollars (\$54,000) and step 12 of the pay plan for Assistant Clerk of the Court of Criminal Appeals. The state salary shall be increased on January 17, 2000, to an amount equal to fifty-four thousand dollars (\$54,000), plus two-thirds of the difference between fifty-four thousand dollars (\$54,000) and step 12 of the pay plan. The state salary shall be increased on January 15, 2001, or on the anniversary date of creditable service, to an amount equal to step 12 of the pay plan. Beginning on the anniversary date in the year 2002, and annually thereafter, the state salary shall be increased in an amount equal to one step in the pay plan until the maximum step authorized by the pay plan is reached.

“(e) Effective January 18, 1999, the state salary payable to circuit clerks and district clerks, who are in office on that date and who have more than 12 years of service, shall be an amount equal to fifty-four thousand dollars (\$54,000), plus one-third of the difference between fifty-four thousand dollars (\$54,000) and step 18 of the pay plan for Assistant Clerk of the Court of Criminal Appeals. The state salary shall be increased on January 17, 2000, to an amount equal to fifty-four thousand dollars (\$54,000), plus two-thirds of the difference between fifty-four thousand dollars (\$54,000) and step 18 of the pay plan for Assistant Clerk of the Court of Criminal Appeals. The state salary shall be increased on January 15, 2001, or on the anniversary date of creditable service, to an amount equal to step 18 of the pay plan.

“(f) Notwithstanding the provisions of this act, no circuit or district clerk shall receive any salary increase for state employees which is enacted to apply effective FY 1999.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 15, 1998

Time: 9:21 A.M.

Act No. 98-302

H. 866 – Rep. Gipson

AN ACT

To provide that no municipality whose corporate limits do not lie within or extend into and embrace and include a portion of Autauga County shall have or exercise police jurisdiction within Autauga County; nor shall the municipality exercise police jurisdiction, police powers, or taxing powers within Autauga County or over or on any person in Autauga County or property or business or trade or profession in Autauga County; nor shall the municipality levy, fix, or collect any license or fee of any kind in Autauga County; nor shall any ordinance of the municipality enforcing police or sanitation regulations or prescribing fines or penalties for violating thereof have force or effect in Autauga County.

Be It Enacted by the Legislature of Alabama:

Section 1. No municipality whose corporate limits do not lie within or extend into and embrace and include a portion of Autauga County shall have or exercise police jurisdiction within Autauga County; nor shall the municipality exercise police jurisdiction, police powers or taxing powers within Autauga County or over or on any person in Autauga County or property or business or trade or profession in Autauga County; nor shall the municipality levy, fix, or collect any license or fee of any kind in Autauga County; nor shall any ordinance of the municipality enforcing police or sanitation regulations or prescribing fines or penalties for violation thereof have force or effect in Autauga County.

Section 2. All laws, local, general, or special, in conflict with the provisions of this act applicable to Autauga County are expressly repealed.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 15, 1998

Time: 9:22 A.M.

Act No. 98-303

H. 87 – Reps. Johnson (R), Flowers

AN ACT

To amend Section 34-24-403, Code of Alabama 1975, relating to immunity from civil liability for members and employees of the Alabama Impaired Physicians Committee, to expand the immunity to volunteers of the committee.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 24-24-403, Code of Alabama 1975, is amended to read as follows:

“§34-24-403.

“Any physician or osteopath licensed to practice medicine in the State of Alabama who shall be duly appointed to serve as a member of the Alabama Impaired Physicians Committee and any auxiliary personnel, consultants, attorneys, or other volunteers or employees of the committee taking any action authorized by this chapter, engaging in the performance of any functions or duties on behalf of the committee, or participating in any administrative or judicial proceeding resulting therefrom, shall, in the performance and operation thereof, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any nonprofit corporation or medical professional association or state or county medical association that contracts with or receives funds from the of State Board of Medical Examiners for the creation, support and operation of the Alabama Impaired Physicians Committee shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 15, 1998

Time: 9:23 A.M.

Act No. 98-304

H. 844 – Rep. Gipson

AN ACT

Relating to Autauga County; providing for the salary of the coroner commencing with the next term of office.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing with the next term of office, the salary of the coroner of Autauga County shall be fourteen thousand

six hundred dollars (\$14,600) per year, which shall be paid in the same manner and at the same time as other county employees.

Section 2. The salary provided in this act shall be in lieu of any other salary, compensation, or expense allowance provided for by general or local law.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 15, 1998

Time: 9:24 A.M.

Act No. 98-305

H. 551 – Reps. Lindsey and Smith

AN ACT

To enact the Southern Dairy Compact; to establish the Southern Dairy Compact Commission; to provide penalties; and to make an appropriation.

Be It Enacted by the Legislature of Alabama:

Section 1. The Southern Dairy Compact is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I. Statement of Purpose, Findings, and Declaration of Policy

Section 1. Statement of purpose, findings, and declaration of policy.

The purpose of this compact is to recognize the interstate character of the southern dairy industry and the prerogative of the states under the United States Constitution to form an interstate commission for the southern region. The mission of the Commission is to take such steps as are necessary to assure the continued viability of dairy farming in the South, and to assure consumers of an adequate, local supply of pure and wholesome milk.

The participating states find and declare that the dairy industry is an essential agricultural activity of the South. Dairy farms, and associated suppliers, marketers, processors, and retailers, are an integral component of the region's economy. Their ability to provide a stable, local supply of pure, wholesome milk is a matter of great importance to the health and welfare of the region.

The participating states further find that dairy farms are essential, and they are an integral part of the region's rural communities.

The farms preserve land for agricultural purposes and provide needed economic stimuli for rural communities.

By entering into this compact, the participating states affirm that their ability to regulate the price that southern dairy farmers receive for their product is essential to the public interest. Assurance of a fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality of the southern dairy industry, with all the associated benefits.

Recent dramatic price fluctuations, with a pronounced downward trend, threaten the viability and stability of the southern dairy region. Historically, individual state regulatory action had been an effective emergency remedy available to farmers confronting a distressed market. The system of federal orders, implemented by the Agricultural Marketing Agreement Act of 1937, establishes only minimum prices paid to producers for raw milk, without preempting the power of states to regulate milk prices above the minimum levels so established.

In today's regional dairy marketplace, cooperative, rather than individual, state action is needed to more effectively address the market disarray. Under our constitutional system, properly authorized states acting cooperatively may exercise more power to regulate interstate commerce than they may assert individually without such authority. For this reason, the participating states invoke their authority to act in common agreement, with the consent of Congress, under the compact clause of the Constitution.

In establishing their constitutional regulatory authority over the region's fluid milk market by this compact, the participating states declare their purpose that this compact neither displace the system of federal orders nor encourage the merging of federal orders. Specific provisions of the compact itself set forth this basic principle.

Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the compact also contains a contingency provision should the system of federal orders be discontinued. In that event, the Commission may regulate the marketplace in lieu of the system of federal orders. This contingent authority does not anticipate such a change, however, and should not be so construed. It is only provided should developments in the market other than establishment of this compact result in discontinuance of the system of federal orders.

ARTICLE II. Definitions and Rules of Construction

Section 2. Definitions.

For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(1) "Class I milk" means milk disposed of in fluid form or as a fluid milk product, subject to further definition in accordance with the principles expressed in subsection (b) of Section 3.

(2) "Commission" means the Southern Dairy Compact Commission established by this compact.

(3) "Commission marketing order" means regulations adopted by the Commission pursuant to Sections 9 and 10 of this compact in place of a terminated federal marketing order or state dairy regulation. Such order may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission. Such order may establish minimum prices for any or all classes of milk.

(4) "Compact" means this interstate compact.

(5) "Compact over-order price" means a minimum price required to be paid to producers for Class I milk established by the Commission in regulations adopted pursuant to Sections 9 and 10 of this compact, which is above the price established in federal marketing orders or by state farm price regulation in the regulated area. Such price may apply throughout the region or in any part or parts thereof as defined in the regulations of the Commission.

(6) "Milk" means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or any other process. The term is used in its broadest sense and may be further defined by the Commission for regulatory purposes.

(7) "Partially regulated plant" means a milk plant not located in a regulated area but having Class I distribution within such area. Commission regulations may exempt plants having such distribution or receipts in amounts less than the limits defined therein.

(8) "Participating state" means a state which has become a party to this compact by the enactment of concurring legislation.

(9) "Pool plant" means any milk plant located in a regulated area.

(10) "Region" means the territorial limits of the states which are parties to this compact.

(11) "Regulated area" means any area within the region governed by and defined in regulations establishing a compact over-order price or commission marketing order.

(12) "State dairy regulation" means any state regulation of dairy prices and associated assessments, whether by statute, marketing order, or otherwise.

Section 3. Rules of construction.

(a) This compact shall not be construed to displace existing federal milk marketing orders or state dairy regulation in the region but to supplement them. In the event some or all federal orders in the region are discontinued, the compact shall be construed to provide the Commission the option to replace them with one or more commission marketing orders pursuant to this compact.

(b) This compact shall be construed liberally in order to achieve the purposes and intent enunciated in Section 1. It is the intent of this compact to establish a basic structure by which the Commission may achieve those purposes through the application, adaptation, and development of the regulatory techniques historically associated with milk marketing and to afford the Commission broad flexibility to devise regulatory mechanisms to achieve the purposes of this compact. In accordance with this intent, the technical terms which are associated with market order regulation and which have acquired commonly understood general meanings are not defined herein but the Commission may further define the terms used in this compact and develop additional concepts and define additional terms as it may find appropriate to achieve its purposes.

ARTICLE III. Commission Established.**Section 4. Commission established.**

There is hereby created a commission to administer the compact, composed of delegations from each state in the region. The Commission shall be known as the Southern Dairy Compact Commission. A delegation shall include not less than three nor more than five persons. Each delegation shall include at least one dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, and one consumer representative. Delegation members shall be residents and voters of, and subject to such confirmation process as is provided for in, the appointing state. Delegation members shall serve no more than three consecutive terms with no single term of more than four years, and be subject to removal for cause. In all other respects, delegation members shall serve in accordance with the laws of the state represented. The compensation, if any, of the members of a state delegation shall be determined and paid by each state, but their expenses shall be paid by the Commission.

Section 5. Voting requirements.

All actions taken by the Commission, except for the establishment or termination of an over-order price or commission marketing order, and the adoption, amendment, or rescission of the Commission's bylaws, shall be by majority vote of the delegations

present. Each state delegation shall be entitled to one vote in the conduct of the Commission's affairs. Establishment or termination of an over-order price or commission marketing order shall require at least a two-thirds vote of the delegations present. The establishment of a regulated area that covers all or part of a participating state shall require also the affirmative vote of that state's delegation. A majority of the delegations from the participating states shall constitute a quorum for the conduct of the Commission's business.

Section 6. Administration and management.

(a) The Commission shall elect annually from among the members of the participating state delegations a chairperson, a vice-chairperson, and a treasurer. The Commission shall appoint an executive director and fix his or her duties and compensation. The executive director shall serve at the pleasure of the Commission, and, together with the treasurer, shall be bonded in an amount determined by the Commission. The Commission may establish through its bylaws an executive committee composed of one member elected by each delegation.

(b) The Commission shall adopt bylaws for the conduct of its business by a two-thirds vote and shall have the power by the same vote to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form with the appropriate agency or officer in each of the participating states. The bylaws shall provide for appropriate notice to the delegations of all Commission meetings and hearings and of the business to be transacted at such meetings or hearings. Notice also shall be given to other agencies or officers of participating states as provided by the laws of those states.

(c) The Commission shall file an annual report with the Secretary of Agriculture of the United States, and with each of the participating states by submitting copies to the Governor, both houses of the legislature, and the head of the state department having responsibilities for agriculture.

(d) In addition to the powers and duties elsewhere prescribed in this compact, the Commission may engage in all of the following:

(1) Sue and be sued in any state or federal court.

(2) Have a seal and alter the same at pleasure.

(3) Acquire, hold, and dispose of real and personal property by gift, purchase, lease, license, or other similar manner, for its corporate purposes.

(4) Borrow money and to issue notes, to provide for the rights of the holders thereof, and to pledge the revenue of the Commission as security therefor, subject to the provisions of Section 18 of this compact.

(5) Appoint such officers, agents, and employees as it may deem necessary, prescribe their powers, duties, and qualifications.

(6) Create and abolish such offices, employments, and positions as it deems necessary for the purposes of the compact and provide for the removal, term, tenure, compensation, fringe benefits, pension, and retirement rights of its officers and employees.

(7) Retain personal services on a contract basis.

Section 7. Rule-making power.

In addition to the power to promulgate a compact over-order price or commission marketing orders as provided by this compact, the Commission is further empowered to make and enforce such additional rules and regulations as it deems necessary to implement any provisions of this compact, or to effectuate in any other respect the purposes of this compact.

ARTICLE IV. Powers of the Commission

Section 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

The Commission may:

(1) Investigate or provide for investigations or research projects designed to review the existing laws and regulations of the participating states, to consider their administration and costs, to measure their impact on the production and marketing of milk and their effects on the shipment of milk and milk products within the region.

(2) Study and recommend to the participating states joint or cooperative programs for the administration of the dairy marketing laws and regulations and to prepare estimates of cost savings and benefits of such programs.

(3) Encourage the harmonious relationships between the various elements in the industry for the solution of their material problems. Conduct symposia or conferences designed to improve industry relations, or a better understanding of problems.

(4) Prepare and release periodic reports on activities and results of the Commission's efforts to the participating states.

(5) Review the existing marketing system for milk and milk products and recommend changes in the existing structure for assembly and distribution of milk which may assist, improve, or promote more efficient assembly and distribution of milk.

(6) Investigate costs and charges for producing, hauling, handling, processing, distributing, selling, and for all other services, performed with respect to milk.

(7) Examine current economic forces affecting producers, probable trends in production and consumption, the level of dairy farm prices in relation to costs, the financial conditions of dairy farmers, and the need for an emergency order to relieve critical conditions on dairy farms.

Section 9. Equitable farm prices.

(a) The powers granted in this section and Section 10 shall apply only to the establishment of a compact over-order price, so long as federal milk marketing orders remain in effect in the region. In the event that any or all such orders are terminated, this Article authorizes the Commission to establish one or more commission marketing orders, as herein provided, in the region or parts thereof as defined in the order.

(b) A compact over-order price established pursuant to this section shall apply only to Class I milk. Such compact over-order price shall not exceed one dollar and fifty cents (\$1.50) per gallon at Atlanta, Georgia, however, this compact over-order price shall be adjusted upward or downward at other locations in the region to reflect differences in minimum federal order prices. Beginning in 1990, and using that year as a base, the foregoing one dollar and fifty cents (\$1.50) per gallon maximum shall be adjusted annually by the rate of change in the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. For purposes of the pooling and equalization of an over-order price, the value of milk used in other use classifications shall be calculated at the appropriate class price established pursuant to the applicable federal order or state dairy regulation and the value of unregulated milk shall be calculated in relation to the nearest prevailing class price in accordance with and subject to such adjustments as the Commission may prescribe in regulations.

(c) A commission marketing order shall apply to all classes and uses of milk.

(d) The Commission may establish a compact over-order price for milk to be paid by pool plants and partially regulated plants. The Commission also may establish a compact over-order price to be paid by all other handlers receiving milk from producers located in a regulated area. This price shall be established either as a compact over-order price or by one or more commission marketing orders. Whenever such a price has been established by either type of regulation, the legal obligation to pay such price shall be determined solely by the terms and purpose of the regulation without regard to the situs of the transfer of title, possession, or any other factors not related to the purposes of the regulation and this compact. Producer-handlers as

defined in an applicable federal market order shall not be subject to a compact over-order price. The Commission shall provide for similar treatment of producer-handlers under commission marketing orders.

(e) In determining the price, the Commission shall consider the balance between production and consumption of milk and milk products in the regulated area, the costs of production including, but not limited to, the price of feed, the cost of labor including the reasonable value of the producer's own labor and management, machinery expense and interest expense, the prevailing price for milk outside the regulated area, the purchasing power of the public, and the price necessary to yield a reasonable return to the producer and distributor.

(f) When establishing a compact over-order price, the Commission shall take such other action as is necessary and feasible to help ensure that the over-order price does not cause or compensate producers so as to generate local production of milk in excess of those quantities necessary to assure consumers of an adequate supply for fluid purposes.

(g) The Commission shall whenever possible enter into agreements with state or federal agencies for exchange of information or services for the purpose of reducing regulatory burden and cost of administering the compact. The Commission may reimburse other agencies for the reasonable cost of providing these services.

Section 10. Optional provisions for pricing order.

Regulations establishing a compact over-order price or a commission marketing order may contain, but shall not be limited to, any of the following:

(1) Provisions classifying milk in accordance with the form in which or purpose for which it is used, or creating a flat pricing program.

(2) With respect to a commission marketing order only, provisions establishing or providing a method for establishing separate minimum prices for each use classification prescribed by the Commission, or a single minimum price for milk purchased from producers or associations of producers.

(3) With respect to an over-order minimum price, provisions establishing or providing a method for establishing such minimum price for Class I milk.

(4) Provisions for establishing either an over-order price or a commission marketing order may make use of any reasonable method for establishing such price or prices including flat pricing

and formula pricing. Provision may also be made for location adjustments, zone differentials, and competitive credits with respect to regulated handlers who market outside the regulated area.

(5) Provisions for the payment to all producers and associations of producers delivering milk to all handlers of uniform prices for all milk so delivered, irrespective of the uses made of such milk by the individual handler to whom it is delivered, or for the payment of producers delivering milk to the same handler of uniform prices for all milk delivered by them.

a. With respect to regulations establishing a compact over-order price, the Commission may establish one equalization pool within the regulated area for the sole purpose of equalizing returns to producers throughout the regulated area.

b. With respect to any commission marketing order, as defined in Section 2, subdivision (9), which replaces one or more terminated federal orders or state dairy regulation, the marketing area of now separate state or federal orders shall not be merged without the affirmative consent of each state, voting through its delegation, which is partly or wholly included within any such new marketing area.

(6) Provisions requiring persons who bring Class I milk into the regulated area to make compensatory payments with respect to all such milk to the extent necessary to equalize the cost of milk purchased by handlers subject to a compact over-order price or commission marketing order. No such provisions shall discriminate against milk producers outside the regulated area. The provisions for compensatory payments may require payment of the difference between the Class I price required to be paid for such milk in the state of production by a federal milk marketing order or state dairy regulation and the Class I price established by the compact over-order price or commission marketing order.

(7) Provisions specially governing the pricing and pooling of milk handled by partially regulated plants.

(8) Provisions requiring that the account of any person regulated under the compact over-order price shall be adjusted for any payments made to or received by such persons with respect to a producer settlement fund of any federal or state milk marketing order or other state dairy regulation within the regulated area.

(9) Provision requiring the payment by handlers of an assessment to cover the costs of the administration and enforcement of such order pursuant to subsection (a) of Section 18 of Article VII.

(10) Provisions for reimbursement to participants of the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966.

(11) Other provisions and requirements as the Commission may find are necessary or appropriate to effectuate the purposes of this compact and to provide for the payment of fair and equitable minimum prices to producers.

ARTICLE V. Rule-making Procedure

Section 11. Rule-making procedure.

Before promulgation of any regulations establishing a compact over-order price or commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, or amendment thereof, as provided in Article IV, the Commission shall conduct an informal rule-making proceeding to provide interested persons with an opportunity to present data and views. Such rule-making proceeding shall be governed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. Section 553). In addition, the Commission shall, to the extent practicable, publish notice of rule-making proceedings in the official register of each participating state. Before the initial adoption of regulations establishing a compact over-order price or a commission marketing order and thereafter before any amendment with regard to prices or assessments, the Commission shall hold a public hearing. The Commission may commence a rule-making proceeding on its own initiative or may in its sole discretion act upon the petition of any person including individual milk producers, any organization of milk producers or handlers, general farm organizations, consumer or public interest groups, and local, state or federal officials.

Section 12. Findings and referendum.

In addition to the concise general statement of basis and purpose required by Section 4(b) of the Federal Administrative Procedure Act, as amended (5 U.S.C. Section 53(c)), the Commission shall make findings of fact with respect to:

(1) Whether the public interest will be served by the establishment of minimum milk prices to dairy farmers under Article IV.

(2) What level of prices will assure that producers receive a price sufficient to cover their costs of production and will elicit an adequate supply of milk for the inhabitants of the regulated area and for manufacturing purposes.

(3) Whether the major provisions of the order, other than those fixing minimum milk prices, are in the public interest and are reasonably designed to achieve the purposes of the order.

(4) Whether the terms of the proposed regional order or amendment are approved by producers as provided in Section 13.

Section 13. Producer referendum.

(a) For the purpose of ascertaining whether the issuance or amendment of regulations establishing a compact over-order price or a commission marketing order, including any provision with respect to milk supply under subsection (f) of Section 9, is approved by producers, the Commission shall conduct a referendum among producers. The referendum shall be held in a timely manner, as determined by regulation of the Commission. The terms and conditions of the proposed order or amendment shall be described by the Commission in the ballot used in the conduct of the referendum, but the nature, content, or extent of such description shall not be a basis for attacking the legality of the order or any action relating thereto.

(b) An order or amendment shall be deemed approved by producers if the Commission determines that it is approved by at least two-thirds of the voting producers who, during a representative period determined by the Commission, have been engaged in the production of milk the price of which would be regulated under the proposed order or amendment.

(c) For purposes of any referendum, the Commission shall consider the approval or disapproval by any cooperative association of producers, qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for or advancing the interests of producers of such commodity, as the approval or disapproval of the producers who are members or stockholders in, or under contract with, such cooperative association of producers, except as provided in subdivision (1) of this subsection and subject to the provisions of subdivisions (2) through (5) of this subsection.

(1) No cooperative that has been formed to act as a common marketing agency for both cooperatives and individual producers shall be qualified to block vote for either.

(2) Any cooperative that is qualified to block vote shall, before submitting its approval or disapproval in any referendum, give prior written notice to each of its members as to whether and how it intends to cast its vote.

The notice shall be given in a timely manner as established, and in the form prescribed, by the Commission.

(3) Any producer may obtain a ballot from the Commission in order to register approval or disapproval of the proposed order.

(4) A producer who is a member of a cooperative which has provided notice of its intent to approve or not to approve a proposed

order, and who obtains a ballot and with such ballot expresses his or her approval or disapproval of the proposed order, shall notify the Commission as to the name of the cooperative of which he or she is a member, and the Commission shall remove such producer's name from the list certified by such cooperative with its corporate vote.

(5) In order to ensure that all milk producers are informed regarding a proposed order, the Commission shall notify all milk producers that an order is being considered and that each producer may register his or her approval or disapproval with the Commission either directly or through his or her cooperative.

Section 14. Termination of over-order price or marketing order.

(a) The Commission shall terminate any regulations establishing an over-order price or commission marketing order issued under this Article whenever it finds that such order or price obstructs or does not tend to effectuate the declared policy of this compact.

(b) The Commission shall terminate any regulations establishing an over-order price or a commission marketing order issued under this Article whenever it finds that such termination is favored by a majority of the producers who, during a representative period determined by the Commission, have been engaged in the production of milk, the price of which is regulated by such order; but such termination shall be effective only if announced on or before such date as may be specified in such marketing agreement or order.

(c) The termination or suspension of any order or provision thereof, shall not be considered an order within the meaning of this Article and shall require no hearing, but shall comply with the requirements for informal rule making prescribed by Section 4 of the Federal Administrative Procedure Act, as amended (5 U.S.C. Section 553).

ARTICLE VI. Enforcement

Section 15. Records, reports, access to premises.

(a) The Commission may by rule and regulation prescribe record keeping and reporting requirements for all regulated persons. For purposes of the administration and enforcement of this compact, the Commission may examine the books and records of any regulated person relating to his or her milk business and for that purpose, the Commission's properly designated officers, employees, or agents shall have full access during normal business hours to the premises and records of all regulated persons.

(b) Information furnished to or acquired by the Commission officers, employees, or its agents pursuant to this section shall be confidential and not subject to disclosure except to the extent that the Commission deems disclosure to be necessary in any administrative or judicial proceeding involving the administration or enforcement of this compact, an over-order price, a compact marketing order, or other regulations of the Commission. The Commission may adopt rules further defining the confidentiality of information pursuant to this section. Nothing in this section shall be deemed to prohibit (i) the issuance of general statements based upon the reports of a number of handlers, which do not identify the information furnished by any person, or (ii) the publication by direction of the Commission of the name of any person violating any regulation of the Commission, together with a statement of the particular provisions violated by such person.

(c) No officer, employee, or agent of the Commission shall intentionally disclose information, by inference or otherwise, that is made confidential pursuant to this section. Any person violating the provisions of this section shall, upon conviction, be subject to a fine of not more than one thousand dollars (\$1,000) or to imprisonment for not more than one year, or both, and shall be removed from office. The Commission shall refer any allegation of a violation of this section to the appropriate state enforcement authority or United States Attorney.

Section 16. Subpoena, hearings, and judicial review.

(a) The Commission is hereby authorized and empowered by its members and its properly designated officers to administer oaths and issue subpoenas throughout all signatory states to compel the attendance of witnesses and the giving of testimony and the production of other evidence.

(b) Any handler subject to an order may file a written petition with the Commission stating that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. The handler shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the Commission. After such hearing, the Commission shall make a ruling upon the prayer of such petition which shall be final, if in accordance with law.

(c) The district courts of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, are hereby vested with jurisdiction to review such ruling, provided a complaint for that purpose is filed within 30 days from the date of the entry of the ruling. Service of process

in these proceedings may be had upon the Commission by delivering to it a copy of the complaint. If the court determines that the ruling is not in accordance with law, it shall remand such proceedings to the Commission with directions either (i) to make such ruling as the court shall determine to be in accordance with law, or (ii) to take such further proceedings as, in its opinion, the law requires. The pendency of proceedings instituted pursuant to this subdivision shall not impede, hinder, or delay the Commission from obtaining relief pursuant to Section 17. Any proceedings brought pursuant to Section 17, except where brought by way of counterclaim in proceedings instituted pursuant to this section, shall abate whenever a final decree has been rendered in proceedings between the same parties, and covering the same subject matter, instituted pursuant to this section.

Section 17. Enforcement with respect to handlers.

(a) Any violation by a handler of the provisions of regulation establishing an over-order price or a commission marketing order, or other regulations adopted pursuant to this compact shall:

(1) Constitute a violation of the laws of each of the signatory states. Such violation shall render the violator subject to a civil penalty in an amount as may be prescribed by the laws of each of the participating states, recoverable in any state or federal court of competent jurisdiction. Each day such violation continues shall constitute a separate violation.

(2) Constitute grounds for the revocation of license or permit to engage in the milk business under the applicable laws of the participating states.

(b) With respect to handlers, the Commission shall enforce the provisions of this compact, regulations establishing an over-order price, a commission marketing order or other regulations adopted hereunder by:

(1) Commencing an action for legal or equitable relief brought in the name of the Commission in any state or federal court of competent jurisdiction; or

(2) Referral to the state agency for enforcement by judicial or administrative remedy with the agreement of the appropriate state agency of a participating state.

(c) With respect to handlers, the Commission may bring an action for injunction to enforce the provisions of this compact or the order or regulations adopted thereunder without being compelled to allege or prove that an adequate remedy of law does not exist.

ARTICLE VII. Finance

Section 18. Finance of start-up and regular costs.

(a) To provide for its start-up costs, the Commission may borrow money pursuant to its general power under Section 6, subdivision (d), paragraph 4. In order to finance the cost of administration and enforcement of this compact, including payback of start-up costs, the Commission may collect an assessment from each handler who purchases milk from producers within the region. If imposed, this assessment shall be collected on a monthly basis for up to one year from the date the Commission convenes, in an amount not to exceed \$.015 per hundred weight of milk purchased from producers during the period of the assessment. The initial assessment may apply to the projected purchases of handlers for the two-month period following the date the Commission convenes. In addition, if regulations establishing an over-order price or a compact marketing order are adopted, they may include an assessment for the specific purpose of their administration. These regulations shall provide for establishment of a reserve for the Commission's ongoing operating expenses.

(b) The Commission shall not pledge the credit of any participating state or of the United States. Notes issued by the Commission and all other financial obligations incurred by it, shall be its sole responsibility and no participating state or the United States shall be liable therefor.

Section 19. Audit and accounts.

(a) The Commission shall keep accurate accounts of all receipts and disbursements, which shall be subject to the audit and accounting procedures established under its rules. In addition, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

(b) The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the participating states and by any persons authorized by the Commission.

(c) Nothing contained in this Article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any participating state or of the United States.

ARTICLE VIII. Entry into Force; Additional Members and Withdrawal

Section 20. Entry into force; additional members.

The compact shall enter into force effective when enacted into law by any three states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia and when the consent of Congress has been obtained.

Section 21. Withdrawal from compact.

Any participating state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after notice in writing of the withdrawal is given to the Commission and the governors of all the participating states. No withdrawal shall affect any liability already incurred by or chargeable to participating state prior to the time of such withdrawal.

Section 22. Severability.

If any part or provision of this compact is adjudged invalid by any court, such judgment shall be confined in its operation to the part or provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact. In the event Congress consents to this compact subject to conditions, said conditions shall not impair the validity of this compact when said conditions are accepted by three or more compacting states. A compact state may accept the conditions of Congress by implementation of this compact.

Section 2. Appointment of members to the Southern Dairy Compact Commission.

(a) The delegation from the State of Alabama to the Southern Dairy Compact Commission, as established in Article IV of the Compact, shall be composed of the following five appointed members:

(1) One member representing consumers of milk, appointed by the Governor.

(2) One member appointed by the House of Representatives upon the recommendation of the Speaker of the House of Representatives.

(3) One member appointed by the Senate upon the recommendation of the Lieutenant Governor.

(4) Two members appointed by the Commissioner of Agriculture, one of whom shall be a dairy farmer engaged in the production of

milk at the time of appointment or reappointment, and the second would be a handler engaged in the processing of fluid milk.

(b) Members shall be registered to vote in the state.

(c) Members shall serve a term of four years and may be reappointed, but no member shall serve more than three consecutive terms. Members shall serve until their successors are duly appointed. Any appointment to fill an unexpired term shall be for the balance of the unexpired term and shall be made by the appropriate appointing authority. A member may be removed by the appointing authority for cause. The Commissioner of Agriculture shall designate one member of the delegation to serve as chair, at the pleasure of the commissioner.

(d) Members of the delegation shall receive per diem and necessary travel and subsistence expenses.

(e) A majority of the delegation shall constitute a quorum for the transaction of business.

(f) All clerical and other services required by the delegation shall be provided by the Commissioner of Agriculture.

Section 3. There is appropriated from the General Fund to the Southern Dairy Compact Commission, as established by Article III of the compact, as enacted in Section 1 of this act, the sum of twenty-five thousand dollars (\$25,000) for the 1997-98 fiscal year and the sum of twenty-five thousand dollars (\$25,000) for the 1998-99 fiscal year to be used by the commission to conduct its activities pursuant to this act.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 15, 1998

Time: 9:25 A.M.

Act No. 98-306

S. 629 – Senator Ghee

AN ACT

Providing for the selection of the board of education for the City of Anniston by election of certain members of the board from defined districts; providing for the selection of a chair; providing for the terms of office, qualifications, and compensation of the members; prescribing procedures for electing the members and for filling vacancies on the board; and providing certain transitional provisions.

Be It Enacted by the Legislature of Alabama:

Section 1. A school board as established by the City of Anniston, Alabama, shall be called "The Anniston City Board of

Education.” The board shall be composed of one member being elected from each of the wards in the city as defined in Section 2 by a majority of the qualified electors voting who reside in each of the wards, and one member elected city-wide.

Section 2. The initial school board districts for the elected members shall be geographically identical to the wards of the city council. If the boundaries of the wards for the election of the city council should be changed for any reason, the boundaries of the corresponding school board district shall automatically change accordingly without the necessity of further action by the Legislature.

Section 3. Candidates for each elected place on the board of education shall be at least 21 years of age, residents of the board of education district which they seek to represent on the board for at least 90 consecutive days immediately preceding the deadline date for qualifying as a candidate, and may not have a record of conviction for any crime involving moral turpitude. The qualification fee for the initial election to be held for the election of the members of the board shall be fifty dollars (\$50) for each candidate. Thereafter, each candidate shall pay a qualifying fee in an amount prescribed by the Anniston City Council.

Section 4. (a) The Anniston City Council shall take necessary steps to ensure this act complies with the Federal Voting Rights Act of 1965, as amended.

(b) Within 10 days after the receipt of notification of compliance with the Voting Rights Act of 1965, as amended, and the provision of proper notice, the Anniston City Council shall call an initial election to elect the members of the board of education. The election for the Anniston City Board of Education may be held concurrent with other elections held within the city.

(c) The initial election and the initial run-off election, if necessary, and all subsequent elections held pursuant to this act shall be conducted, the vote canvassed, and the results declared in the same manner as provided for the election of members of the city council, unless otherwise required in this act.

(d) The initial elected members of the board of education shall assume office immediately upon their qualification. The initial elected members of the board shall serve an initial term of office which shall expire at the same time as the expiration of the current term of office of the current city council.

(e) Upon completion of the initial term of office of members of the city board of education, succeeding elected members shall be elected at the same time and in the same manner as the city council.

All succeeding members shall assume office at the same time and for the same term as the city council.

Section 5. (a) Upon the assumption of office of the initial members of the board of education, the Anniston City Board of Education as provided in Section 1 shall be constituted. At this time, the terms, powers, duties, responsibilities, and emoluments of office of the prior members of the board of education shall end.

(b) (1) Upon assumption of office of the members of the board of education as provided by this act, these members shall have the powers, authority, duties, and responsibilities as are otherwise provided by law for members of city boards of education as set forth in Chapter 11, commencing with Section 16-11-1, of Title 16, of the Code of Alabama 1975.

(2) At the first meeting after the board takes office and each year thereafter, the board shall select a chair from among its members. The chair shall preside over meetings of the board and shall possess the same powers and duties as other members of the board.

(3) All property, records, supplies, and equipment of the prior board of education shall be vested in the succeeding board.

(c) The establishment of the board of education as provided in this act shall not affect or impair any of the following:

(1) Existing rights or privileges of employees of the board including, but not limited to, employment, personnel, salary, and retirement rights and privileges.

(2) Existing contractual obligations of the board of education.

(3) Existing civil and criminal actions.

Section 6. A vacancy in the board of education shall be filled by appointment by a majority of the members of the Anniston City Council for the unexpired term. If the vacancy is not filled by the Anniston City Council within 30 days, the State Superintendent of Education shall fill the vacancy by appointment. The city superintendent of education shall notify the State Superintendent of Education when a vacancy on the city board of education has not been filled within 30 days.

Section 7. The compensation for the members of the board of education shall be three hundred dollars (\$300) per month to be paid from city school system funds. The board may change this amount by majority vote, which change may be made not later than six months prior to the deadline for qualification of candidates for seats on the board of education. Thereafter, the compensation as set by the board from time to time shall be in effect for successor boards.

Section 8. All laws or parts of laws which conflict with this act, and specifically Act 184, 1883 Regular Session, Act 109, 1891 Regular Session, Act 415, 1895 Regular Session, and Act 622, 1898 Regular Session, are repealed.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective upon its passage and approval by the Governor, or its otherwise becoming law and the adoption of a local constitutional amendment authorizing the Legislature to provide for the selection of the board of education of the City of Anniston by local law.

Approved April 15, 1998

Time: 3:30 P.M.

Act No. 98-307

H. 870 – Rep. Hinshaw

AN ACT

Relating to the City of Huntsville in Madison County; providing that retired employees of the Huntsville Utility Board shall be granted certain cost-of-living pension increases whenever retired state employees are granted such pension increases; and providing for a retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. Whenever the retired employees of the state are granted a cost-of-living pension increase either by act of the Legislature or action of the Board of Control of the State Employees' Retirement System, the retired employees of the Huntsville Utility Board shall be granted a cost-of-living pension increase on a percentage basis equal to any such increase granted to retired state employees. The increase for retired employees shall be funded out of any and all appropriations made to the Huntsville Utility Board.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. The provisions of this act shall have retroactive effect to the date that the last cost-of-living increase was granted to retired employees of the state.

Section 5. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 15, 1998

Time: 3:31 P.M.

Act No. 98-308

S. 655 – Senator Dial

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected or appointed public officials in Randolph County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Randolph County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Randolph County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Randolph County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office. No person may participate in both a supernumerary program and the Employees' Retirement System based on the same service. For the purposes of this amendment, the words "elected or appointed Randolph County official" include, subject only to express limitation, any person elected to represent Randolph County in any representative body of the state and includes any person appointed to serve the remaining term of an elected or appointed Randolph County official. The words do not include a judge, district attorney, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Randolph County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain public officials and allow elected or appointed county officials, as defined, to participate in the Employees’ Retirement System.

Proposed by Act_____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the Senate April 9, 1998

Passed the House April 15, 1998

Act No. 98-309

S. 580 – Senator Dial

AN ACT

Prohibiting the revenue departments of certain counties from retaining collection fees for certain ad valorem taxes collected for fire protection and emergency services.

Be It Enacted by the Legislature of Alabama:

Section 1. Unless authorized by local law, the county revenue departments are prohibited from charging and retaining any collection fees for collecting and otherwise administering any special two mills of ad valorem tax authorized by referendums on June 4, 1996 and levied in any county for fire protection and emergency services.

Section 2. This act shall become effective retroactive to the date authorized by referendums on June 4, 1996, and approved by the Governor. The intent of this legislation is for all monies collected under this referendum to go to fire and emergency services outlined above in Section 1.

This Act became a law under Section 125 of the Constitution on April 16, 1998 without approval by the Governor.

Act No. 98-310

H. 709 – Rep. McDaniel

AN ACT

Relating to Marshall County; to amend Act 287, 1943 Regular Session (Acts 1943, p. 165); to further provide for the appointment and removal of members of the Municipal Utilities Board of Albertville; and to establish a nominating committee to submit a list of names of persons to fill an appointment or vacancy.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 5 and 11 of Act 287, 1943 Regular Session are amended to read as follows:

Section 5, 11. "Section 5. APPOINTMENT OF SUCCESSOR MEMBERS OF THE BOARD. –

"(a) Any subsequent appointments to the board after the initial appointments in Section 2 shall be made by the Albertville City Council in December of the year that the term of the member of the board expires in the following January, or whenever a vacancy occurs by resignation, death, or other cause. The appointment shall be made from the names provided by the nominating committee. Any member appointed to the board shall serve a term of six years beginning on the second Monday in January following the appointment by the city council.

"(b) A nominating committee is hereby established to fill appointments and any vacancies. The committee shall consist of one member appointed by the Albertville Industrial Development Board to serve an initial term of two years, one member appointed by the City of Albertville Chamber of Commerce to serve an initial term of three years, and one member appointed by the legislative delegation of Marshall County to serve an initial term of one year. All subsequent appointments to the committee shall be appointed in the manner of the original appointment and shall serve a term of three years respectively. The committee shall submit a list of **three names to the city council to fill the appointment.**

"Section 11. REMOVAL OF MEMBER OF THE BOARD – Any member of the board may be removed from office. A member may only be removed upon an affirmative vote of at least three members of the city council and the affirmative vote of the mayor. If a member is removed, the nominating committee created pursuant to Section 5 shall submit a list of three names to the city council to fill the vacancy. The Albertville City Council shall make an appointment within 30 days from the time they receive the nominating committee's list. In the event the city council does not make the appointment within 30 days, it shall be made by the nominating committee from the names previously submitted to the city council. The person appointed shall serve the remaining term of the person removed."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 16, 1998 without approval by the Governor.

Act No. 98-311

H. 778 – Reps. Hawk and McDaniel

AN ACT

Relating to Marshall County; to provide for the assessment of additional court costs in the district court of the county and to provide for the disposition of the proceeds.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) In order to further provide for the protection and welfare of children in Marshall County who are alleged to be or have been found by the juvenile court of the county to be abused and neglected or otherwise “dependent” pursuant to Section 12-15-1, Code of Alabama 1975, a fee of four dollars (\$4) shall be charged and collected by the clerk of the court on each district court case in Marshall County. The fee shall be in addition to all other costs and charges in district court cases in Marshall County.

(b) The clerk of court shall collect the fee in the same manner as other costs in district court and shall remit the fee to “The Child Protection Fund” in the county treasury to be administered by the Presiding Juvenile Judge of Marshall County. Any money distributed from the Child Protection Fund shall be used for the Court Appointed Juvenile Advocates (CAJA) Program and as approved by the Presiding Juvenile Judge of Marshall County.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on April 16, 1998 without approval by the Governor.

Act No. 98-312

H. 796 – Rep. Millican

AN ACT

Relating to the City of Winfield, Marion County; to alter, rearrange and extend the boundary lines and corporate limits of the City of Winfield, in Marion County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the City of Winfield, in Marion County, are hereby altered, rearranged and extended so as to include in the corporate limits of said city, in addition to the lands now included, all of the following territory, to-wit:

All of the W 1/2 of the NW 1/4 of Section 26, Township 12 South, Range 12 West that lies West of Highway 129; All of the E 1/2 of the NE 1/4 of Section 27, Township 12 South, Range 12 West that lies South of Corridor "X" and West of Highway No. 129; All of the E 1/2 of SE 1/4 of Section 22, Township 12 South, Range 12 West that lies South of the Southerly right-of-way of Corridor "X".

Also, a parcel of land located in the W 1/2 of the NW 1/4 of Section 26, Township 12 South, Range 12 West, Marion County, Alabama, more particularly described as follows, to-wit: Commence at the Southeast corner of the SW 1/4 of the NW 1/4 of said Section 26; thence run North 89 degrees 53 minutes 46 seconds West along the South line thereof for a distance of 964.57 feet to the Easterly right-of-way of Highway No. 129 (being a 100 foot wide right-of-way); thence run North 10 degrees 24 minutes 18 seconds West, along said right-of-way a distance of 1,782.85 feet to the point of beginning; thence continue North 10 degrees 24 minutes 18 seconds West, along said right-of-way, for a distance of 348.17 feet; thence leaving said right-of-way run South 89 degrees 59 minutes 51 seconds East for a distance of 1,287.07 feet to a fence line; thence run South 01 degree 37 minutes 18 seconds East, along said fence, for a distance of 342.73 feet; thence run North 89 degrees 59 minutes 27 seconds West for a distance of 1,233.89 feet to the point of beginning.

Also, a parcel of land located in the W 1/2 of the NW 1/4 of Section 26, Township 12 South, Range 12 West, more particularly described as follows, to-wit: Commence at the SE corner of the SW 1/4 of the NW 1/4 of Section 26, Township 12 South, Range 12 West; thence run N 89 degrees 53' 46" W along the South line thereof for a distance of 964.57' to the Easterly right-of-way of Highway No. 129 (being a 100' wide right-of-way); thence run N 10 degrees 24' 18" W, along said right-of-way for a distance of 1419.23' to the point of beginning; thence continue N 10 degrees 24' 18" W along said right-of-way for a distance of 363.63'; thence leaving said right-of-way run S 89 deg. 59' 27" E for a distance of 1233.89' to a fence line; thence run S 01 deg. 40' 43" E along said fence for a distance of 357.86'; thence run N 89 deg. 59' 16" W for a distance of 1178.70' to the point of beginning containing 9.90 acres more or less.

Also, a parcel of land located in the W 1/2 of the NW 1/4 of Section 26, Township 12 South, Range 12 West, more particularly described as follows: Commence at the SE corner of SW 1/4 of the

NW 1/4 of Section 26, Township 12 South, Range 12 West; thence run N 89 deg. 53' 46" W along the South line thereof for a distance of 964.57' to the easterly right-of-way of Highway No. 129 (Being a 100' wide right-of-way); thence run N 10 deg. 24' 18" W along said right-of-way for a distance of 1039.87' to the point of beginning; thence continue N 10 deg. 24' 18" W along said right-of-way for a distance of 381.36'; thence leaving said right-of-way run S 89 deg. 59' 16" E for a distance of 1178.70' to a fence line; thence run S 01 deg. 41' 43" E along said fence for a distance of 375.05'; thence run N 89 deg. 59' 49" W for a distance of 1120.92' to the point of beginning containing 9.90 acres more or less.

Also, a parcel of land located in the W 1/2 of the NW 1/4 of Section 26, Township 15 South, Range 12 West, more particularly described as follows: Commence at the SE corner of the SW 1/4 of the NW 1/4 of Section 26, Township 12 South, Range 12 West; thence run N 89 deg. 53' 46" W along the South line thereof for a distance of 964.57' to the easterly right-of-way of Highway No. 129 (being a 100' wide right-of-way); thence run N 10 deg. 24' 18" W along said right-of-way for a distance of 635.91' to the point of beginning; thence continue N 10 deg. 24' 18" W along said right-of-way for a distance of 401.95'; thence leaving said right-of-way run S 89 deg. 59' 49" E for a distance of 1120.92' to a fence line; thence run S 01 deg. 42' 59" E along said fence for a distance of 395.69'; thence run N 89 deg. 59' 16" W for a distance of 1060.17' to the point of beginning containing 9.88 acres more or less.

Also, a parcel of land in the W 1/2 of the NW 1/4 of Section 26, Township 12 South, Range 12 West, more particularly described as follows: Commence at the SE corner of the SW 1/4 of the NW 1/4 of Section 26, Township 12 South, Range 12 West; thence run N 89 degrees 53' 46" W along the South line thereof for a distance of 964.57' to the Easterly right-of-way of Highway No. 129 (being a 100' wide right-of-way); thence run N 10 degrees 24' 18" W along said right-of-way for a distance of 297.04' to the point of beginning; thence continue N 10 degrees 24' 18" W along said right-of-way a distance of 338.87'; thence leaving said right-of-way run S 89 degrees 59' 16" E for a distance of 1060.17' to a fence line; thence run S 01 degrees 40' 57" E along said fence line for a distance of 333.34'; thence run N 89 degrees 59' 35" W for a distance of 1008.76' to the point of beginning. Containing 7.88 acres more or less.

Also, begin at the SE corner of the SW 1/4 of the NW 1/4 of Section 26, Township 12 South, Range 12 West, Marion County, Alabama; thence run N 9 degrees 53' 46" W., along the South line thereof for a distance of 964.57 feet to the Easterly right-of-way of Highway No. #129 (being a 100 foot wide right-of-way); thence run

N 10 degrees 24' 18" W., along said right-of-way for a distance of 297.04 feet; thence leaving said right-of-way run S 89 degrees 59' 35" E., for a distance of 1008.76 feet to a fence line; thence run S 01 degrees 50' 41" E., along said fence for a distance of 293.94 feet to the point of beginning. Containing 6.62 acres more or less.

Also, all that portion of the following described property which lies East of Highway No. 129 and South of Corridor "X" (new Highway No. 78): A parcel of land located in the West 1/2 of the NW 1/4 of Section 26, and the NE 1/4 of the NE 1/4 of Section 27, both in Township 12 South, Range 12 West, more particularly described as follows: Commence at the SE corner of the SW 1/4 of the NW 1/4 of Section 26, Township 12 South, Range 12 West; thence run N. 89 degrees 53' 46" W along the South line thereof for a distance of 964.57' to the Easterly right-of-way of Highway No. 129 (being a 100' wide right-of-way); thence run N 10 degrees 24' 18" W along said right of way for a distance of 2131.03' to the point of beginning; thence continue N 10 degrees 24' 18" W along said right-of-way for a distance of 656.92' to the North line of said Section 27; thence leaving said right-of-way run N 89 degrees 56' 42" E along said North line for a distance 23.55' to the NW corner of Section 26; thence run S 89 degrees 59' 26" E along the North line of said Section 26 for a distance of 1364.60' to a fence line; thence run S 01 degree 33' 27" E along said fence for a distance of 646.22'; thence run N 89 degrees 59' 51" W for a distance of 1287.07' to the point of beginning, containing 19.84 acres, more or less.

Section 2. The extension of the boundaries of the corporate limits of the City of Winfield pursuant to this Act shall not extend the police jurisdiction of the City of Winfield as it existed prior to the enactment of this Act.

Section 3. In accordance with the provisions of Section 11-42-6(b), Code of Alabama 1975, as amended, a map showing what territory is proposed to be annexed to the City of Winfield is on file in the office of the Judge of Probate in Marion County, Alabama, and such map is open to public inspection.

Section 4. All laws or parts of laws which conflict with this act are repealed.

Section 5. Except as otherwise herein provided, the provisions of this act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on April 16, 1998 without approval by the Governor.

Act No. 98-313

S. 628 – Senator Ghee

AN ACT

Relating to Calhoun County; providing for the development and redevelopment and disposal of certain property within the boundaries of Fort McClellan by Calhoun County, Alabama, certain municipalities within the county, and the Fort McClellan Development Commission; prescribing the powers, liabilities, and contractual authorities of the municipalities within the county, Calhoun County, the county commission, and the Fort McClellan Development Commission relating to the development and redevelopment and disposal of certain property; prohibiting the expansion of any police jurisdiction of any municipality to include any property which is within the boundaries of Fort McClellan on the effective date of this act; and providing for this act to become effective on January 1, 1999.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Calhoun County, Alabama, may take title as a result of conveyance from the federal government to any property within the current boundaries of Fort McClellan in Calhoun County, Alabama, for purposes of developing or redeveloping and disposal of the property according to plans and policies established by the Fort McClellan Development Commission provided for in Act 97-274 of the 1997 Regular Session and hereinafter referred to as the FMDC. The county commission shall administer all funds and fiscal operations associated with the development and redevelopment and disposal of the property and shall be reimbursed from the funds for actual expenses associated with administering the fiscal operations, and shall receive all amounts allowed, pursuant to any grant received, for administration.

(b) (1) As a condition precedent to accepting a conveyance of title to the Fort McClellan property, the Calhoun County Commission shall secure if possible a written agreement from the federal government under which Calhoun County would be indemnified for any costs required to clean up or otherwise alleviate any environmental problem on the property.

(2) Notwithstanding the provisions of subpart 1 of this subsection (b) of this Section 1 of this act, Calhoun County may refuse to take title to or control of any tract, parcel or portion of any property with an environmental problem, or possible environmental problem, and may take title to other tracts, parcels or portions of the property.

(c) The FMDC, and each of its officers, employees, servants and agents, and each member of its board, shall be immune from suit, and not subject to civil liability, and shall not be liable for any tort, arising from or due to the conduct of the affairs of the FMDC pursuant to Act 97-274 of the 1997 Regular Session of the Alabama Legislature, or said Act 97-274, as it may from time to time be amended or modified.

(d) The FMDC shall recommend the policy for the development and redevelopment of the Fort McClellan property and shall inform the Calhoun County Commission of the policy and the estimated cost of implementing the policy. The FMDC shall make recommendations to the Calhoun County Commission as to the implementation of the policy and how said policy may be carried out within available funds for the development and redevelopment of Fort McClellan. The Calhoun County Commission may deviate from the FMDC recommended policies only for clear and compelling reasons associated with fiscal responsibility. Any and all accounting and fiscal management practices shall rest solely with the Calhoun County Commission. Any utility facilities currently owned by the federal government on the former federal property (Fort McClellan) may be owned, leased, and otherwise disposed of by Calhoun County.

(e) The City of Anniston shall provide city services and implement zoning for the property consistent with the FMDC redevelopment plan and state law. The county shall enter into agreements with the City of Anniston and the Water and Sewer Board of the City of Anniston for the provision of services in furtherance of the developing and redeveloping, and disposal of property pursuant to this act, and consistent with the FMDC redevelopment plan and state law.

(f) Any municipality that extends its corporate limits within any federal property shall not extend its police jurisdiction beyond its corporate limits.

(g) The Calhoun County Commission, all municipalities within Calhoun County, all elected state and federal officials, and the FMDC shall work together to secure and use any available private and public grant funds for the development and redevelopment of Fort McClellan property.

(h) If any of the Fort McClellan federal property is annexed to any municipality, the annexing municipality shall assume all rights, duties, authority and liability associated with the annexed area. The annexed property shall be zoned so that its use shall be consistent with the FMDC plan.

(i) Nothing in this legislation shall be construed to prohibit the Calhoun County Commission and the City of Anniston from entering into an intergovernmental agreement to form a joint powers authority consistent with state law for the purpose of assisting with the development of the Fort McClellan property.

Section 2. This act shall become effective January 1, 1999, following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 16, 1998

Time: 2:50 P.M.

Act No. 98-314

S. 641 – Senator Denton

AN ACT

To amend Act 97-880, 1997 Extraordinary Session, which act altered and rearranged the boundary lines and corporate limits of the City of Florence and the City of St. Florian in Lauderdale County, to correct the description of property removed from the City of St. Florian and annexed to the City of Florence, to further clarify the property annexed to the City of Florence, and to provide that certain property will be annexed to the City of St. Florian.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1 and 2 of Act 97-880, 1997 Extraordinary Session, are amended to read as follows:

“Section 1. (a) The boundary lines and corporate limits of the City of St. Florian and the City of Florence in Lauderdale County are altered and rearranged to remove from the corporate limits of the City of St. Florian all of the following territory, which territory will be added to the City of Florence as a part of subsection (b):

“TRACT 1

“STATE OF ALABAMA

“COUNTY OF LAUDERDALE

“A tract of land in Section 19, Township 2 South, Range 10 West, Lauderdale County, Alabama, being more particularly described as follows, to-wit: Commence at the Southeast corner of said Section 19; thence South 89 degrees 55 minutes 02 seconds West for 190.00 feet to the point of beginning; thence South 89 degrees 59 minutes 45 seconds West for 1131.64 feet; thence North 00 degrees 00 minutes 48 seconds West for 1292.87 feet; thence North 88 degrees 52 minutes 20 seconds East for 995.87 feet; thence South 01 degree 32 minutes 00 seconds East for 927.60 feet; thence North 75 degrees 28 minutes 07 seconds East for 113.99 feet; thence South 00 degrees 09 minutes 09 seconds East for 413.73 feet to the point of beginning. Said tract contains 31.27 acres, more or less.

“TRACT 2

“STATE OF ALABAMA

“COUNTY OF LAUDERDALE

“A tract of land in Section 30, Township 2 South, Range 10 West, Lauderdale County, Alabama, being more particularly described as follows, to-wit: Commence at the Northeast corner of said Section 30; thence South 00 degrees 00 minutes 48 seconds

East for 1320.05 feet; thence South 89 degrees 59 minutes 12 seconds West for 190.00 feet to the point of beginning; thence South 00 degrees 00 minutes 48 seconds East for 1142.18 feet; thence North 88 degrees 53 minutes 47 seconds West for 272.61 feet; thence South 00 degrees 34 minutes 46 seconds West for 186.66 feet; thence South 01 degree 11 minutes 03 seconds West for 423.27 feet; thence North 89 degrees 48 minutes 50 seconds West for 848.31 feet; thence North 00 degrees 00 minutes 48 seconds West for 1743.74 feet; thence North 89 degrees 59 minutes 12 seconds East for 1131.64 feet to the point of beginning. Said tract contains 41.48 acres, more or less.

"(b) The boundary lines and corporate limits of the City of Florence in Lauderdale County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

"That tract or lot of land lying in the County of Lauderdale, State of Alabama, known and described as follows, to wit: A part of Sections 19 and 30, Township 2 South, Range 10 West, Lauderdale County, Alabama, and being more particularly described as follows: To find the point of beginning, commence at an existing cotton spindle in the centerline of paved County Road No. 61 (Middle Road) said point being the NE corner of said Section 30; thence S 89 degrees 50' 55" W 39 feet to an iron pin (capped typical R. Collins, L.S. 13406) on the Westwardly right of way of said County Road No. 61, being 40 feet from said centerline and to the point of beginning; thence S 0 degrees 04' 49" E and along said right of way lying 40 feet West of the centerline of paved County Road No. 61 for 2465.10 feet to an iron pin; thence leaving said right of way N 88 degrees 57' 48" W 422.64 feet to iron pin; thence S 0 degrees 30' 45" W 186.66 feet to an existing iron pin at a fence corner; thence S 1 degree 07' 02" W 423.27 feet (passing over a referenced iron pin at 409.27 feet) to a point in the centerline of a ditch; thence N 89 degrees 52' 51" W and generally along the centerline of said ditch 848.31 feet; thence leaving the centerline of said ditch S 0 degrees 19' 41" E 10 feet to an existing 10" cedar corner fence post; thence along an existing wire fence the following bearings and distances: N 88 degrees 53' 10" W 56.29 feet, S 88 degrees 57' 50" W 323.43 feet, S 88 degrees 58' 04" W 104.34 feet, N 88 degrees 52' 41" W 85.70 feet, S 82 degrees 52' 48" W 32.76 feet to an iron pin; S 89 degrees 05' 28" W 58.59 feet, N 87 degrees 56' 58" W 108.27 feet, N 88 degrees 36' 29" W 138.90 feet, N 87 degrees 10' 01" W 106.93 feet, N 88 degrees 05' 30" W 102.01 feet, N 75 degrees 39' 48" W 20.10 feet, S 88 degrees 15' 08" W 55.06 feet to an iron pin set at a fence corner; thence along said fence line the following bearings and distances: N 5 degrees 21' 38" W 141.96 feet, N 4 degrees 58' 07" W 566.77 feet to a fence corner, N 60 degrees 02' 53" W 134.77 feet to a fence corner, N 7 degrees 26' 36" W 139.46 feet to a point on the Eastwardly side of a 36 inch dead hackberry tree, N

3 degrees 31' 37" E 503.98 feet to an iron pin set at the end of said fence line; thence N 77 degrees 17' 00" E 23.16 feet to an iron pin set on the extension of the centerline of an old road bed; thence N 2 degrees 04' 06" E and along the centerline of said old road bed 799.15 feet to the intersection of an existing gravel drive; thence along said centerline of said gravel drive the following bearings and distances: N 1 degree 05' 10" E 279.19 feet, N 1 degree 48' 52" E 58.18 feet, N 3 degrees 37' 26" E 46.20 feet, N 0 degrees 05' 42" E 46.11 feet, N 6 degrees 35' 50" West 40.79 feet, N 24 degrees 26' 54" W 72.28 feet, N 37 degrees 01' 22" W 106.80 feet, N 35 degrees 16' 43" W 345.56 feet, N 44 degrees 39' 08" W 32.94 feet, N 65 degrees 31' 58" W 14.05 feet, N 79 degrees 58' 47" W 30.39 feet, N 88 degrees 21' 56" W 846.76 feet, N 86 degrees 03' 35" W 173.76 feet, N 78 degrees 41' 38" W 52.25 feet, N 63 degrees 41' 48" W 45.88 feet, N 53 degrees 26' 54" W 52.97 feet to an iron pin set on the Southeastwardly right of way of paved County Road No. 47 (Old Jackson Highway - 80 foot right of way); thence N 32 degrees 32' 43" E and along said right of way 1551.04 feet to an existing iron pin; thence leaving said right of way N 89 degrees 30' 05" E and along an existing fence line 1899.66 feet to an existing 1 1/2 inch square pin at a fence corner; thence generally along an existing fence line the following bearings and distances: S 4 degrees 21' 42" E 57.83 feet, S 14 degrees 22' 02" E 166.10 feet to a fence corner; S 9 degrees 14' 18" E 54.93 feet, S 8 degrees 58' 39" E 110.48 feet, S 6 degrees 40' 50" E 198.81 feet to an existing railroad cross tie post, S 31 degrees 39' 37" E 251.80 feet, S 32 degrees 52' 42" E 574.01 feet to an existing creosote corner fence post, N 75 degrees 05' 52" E 577.51 feet to an existing iron pin (disturbed); thence N 75 degrees 24' 12" E 265.39 feet to an iron pin set on the Westwardly right of way (lying 40 feet West of the centerline) of the aforementioned paved County Road No. 61; thence S 1 degree 08' 12" E and along said right of way 173.34 feet to an iron pin; thence S 0 degrees 13' 10" E and along said right of way 278.33 feet to the point of beginning, less and except the following:

"TRACT 3

"STATE OF ALABAMA

"COUNTY OF LAUDERDALE

"A tract of land in Section 30, Township 2 South, Range 10 West, Lauderdale County, Alabama, being more particularly described as follows, to-wit: Begin at the Northeast corner of said Section 30; thence South 00 degrees 00 minutes 48 seconds East for 1320.05 feet; thence South 89 degrees 59 minutes 12 seconds West for 190.00 feet; thence North 00 degrees 00 minutes 48 seconds West for 1319.82 feet; thence North 89 degrees 55 minutes 02 seconds East for 190.00 feet to the point of beginning. Said tract contains 5.76 acres, more or less.

“(c) The boundary lines and corporate limits of City of St. Florian in Lauderdale County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

“TRACT 3

“STATE OF ALABAMA

“COUNTY OF LAUDERDALE

“A tract of land in Section 30, Township 2 South, Range 10 West, Lauderdale County, Alabama, being more particularly described as follows, to-wit: Begin at the Northeast corner of said Section 30; thence South 00 degrees 00 minutes 48 seconds East for 1320.05 feet; thence South 89 degrees 59 minutes 12 seconds West for 190.00 feet; thence North 00 degrees 00 minutes 48 seconds West for 1319.82 feet; thence North 89 degrees 55 minutes 02 seconds East for 190.00 feet to the point of beginning. Said tract contains 5.76 acres, more or less.

“Section 2. In accordance with Section 11-42-6 of the Code of Alabama 1975, a map showing the proposed territory to be removed from the City of St. Florian, the proposed territory to be added to the City of Florence, and the proposed territory to be added to the City of St. Florian is on file and open to public inspection in the office of the Judge of Probate in Lauderdale County, Alabama.”

Section 2. The provisions of this act are remedial and shall be retroactive to December 1, 1997.

Section 3. Act 97-857, 1997 Extraordinary Session, an identical act to Act 97-880, is repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 16, 1998

Time: 2:51 P.M.

Act No. 98-315

S.J.R. 120 – Senator Freeman

SENATE JOINT RESOLUTION

COMMENDING KENNETH E. HARWELL ON HIS APPOINTMENT AS CHIEF SCIENTIST OF THE U.S. AIR FORCE RESEARCH LABORATORY.

WHEREAS, Kenneth E. Harwell, a native of Kellyton, Tallapoosa County, Alabama, is commended for his unparalleled record of leadership and professional achievements as Senior Vice

President for Research and Associate Provost at the University of Alabama in Huntsville from 1989 to 1998, and upon his appointment as the first Chief Scientist of the United States Air Force Research Laboratory; and

WHEREAS, Dr. Harwell received his B.S. Degree in Aeronautical Engineering from the University of Alabama in 1959, and M.S. and PhD Degrees in Aeronautics with an emphasis in Physics from the California Institute of Technology in 1960 and 1963; and

WHEREAS, he served with commanding skill on the faculty of Aerospace Engineering at Auburn University from 1964 to 1974, as a Dean and peerless leader of the University of Tennessee Space Institute from 1975 to 1989, and exerted a profound influence as an author of more than 100 research and professional papers; and

WHEREAS, a registered professional engineer in Alabama and fellow of AIAA, Dr. Harwell also provided executive leadership for a \$35 million research budget with funded research growing from \$14 million to \$35 million; managed 15 research centers, institutes, and consortiums, and was instrumental in establishing new research centers in propulsion, aerophysics, earth system science, and information; and

WHEREAS, he has garnered numerous awards in recognition of his accomplishments including the prestigious Toftoy Award recognizing his research leadership, and Engineer of the Year Award sponsored by the Alabama Society of Professional Engineers; and

WHEREAS, Dr. Harwell, a devoted husband and father, exemplifies the highest standards of professionalism, superior initiative, and personal endeavors, and has earned the respect and admiration of the people of the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we take great pride in commending Kenneth E. Harwell on his exemplary record of career achievements and do further direct that he receive a copy of this resolution of highest honor and esteem.

Approved April 16, 1998

Time: 2:52 P.M.

Act No. 98-316

S.J.R. 122 – Senator Freeman

SENATE JOINT RESOLUTION

RECOGNIZING FRANZ E. ROSENBERGER FOR HIS MANY
YEARS OF OUTSTANDING SERVICE TO THE STATE OF
ALABAMA AND THE UNIVERSITY OF

WHEREAS, a native of Salzburg, Austria, Dr. Franz E. Rosenberger received a Vordiplom and a Diplom in Physics from the University of Stuttgart, Germany, in 1960 and 1964, and a PhD in Physics from the University of Utah in 1970; and

WHEREAS, Professor Rosenberger began his career as a tool and die maker, research technician, and designer at Siemens, and research assistant at the Physikalisches Institute and, since coming to the United States in 1966, has held various positions at the University of Utah including Research Scientist and Professor of Physics (1969-1986), and served as first Director of the Center for Microgravity and Materials Research and Professor of Physics at the University of Alabama in Huntsville since 1986, with the Center now commanding world-wide recognition for its research in materials process modeling, experimental protein crystal growth and vapor growth; and

WHEREAS, Professor Rosenberger is widely acclaimed for his contributions to the experimental and theoretical aspects of crystal growth and materials preparation, including the preparation and trace analytical characterization of ultrapure halides and oxides, optical properties of solids, numerical and experimental fluid dynamics of materials processing, mass spectroscopy of high temperature vapors, and interfacial stability and growth kinetics; and has received numerous honors and awards for his achievements; and

WHEREAS, his tireless dedication and fervent enthusiasm for the process of crystal growth is contagious and has motivated students and colleagues across the globe; and

WHEREAS, in an extension of service, Dr. Rosenberger has served on national and international committees, and has over 100 technical publications in the field of microgravity materials science; and

WHEREAS, Dr. Rosenberger is indeed a person of extraordinary vision and insight and a highly respected colleague, with an open attitude toward sharing and disseminating information; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Professor Franz Rosenberger for his many years of service and dedication to the University of Alabama in Huntsville, and to his profession of microgravity materials processing, and extend to him and his lovely wife, Renate, our sincere regards and best wishes for continuing good health and happiness in the years to come.

Approved April 16, 1998

Time: 2:53 P.M.

Act No. 98-317

S.J.R. 70 – Senator Dixon

SENATE JOINT RESOLUTION

OFFERING A CHALLENGE AND ACCEPTING AN INVITATION.

WHEREAS, as the 1998 Regular Session approaches the mid-way point, the usual legislative maladies of anger, accusation, and anguish have set in, with the resulting bitter banter that the other house refuses to do the right thing, which usually means agree with the chamber bellowing this all-too-common complaint; and

WHEREAS, prior to the outbreak of open hostilities and irreparable institutional and personal harm, attempts should be initiated to negotiate disagreements, arbitrate misunderstandings, and most importantly, settle who truly holds the upper hand; and

WHEREAS, with each passing legislative day it becomes more urgent to resolve whether the members of that self-proclaimed deliberative body are as accomplished and intelligent as they declare themselves to be; and further, whether those base and plebeian representatives of the lower chamber are really the broad-shouldered, load-bearing, problem-solving pragmatists they so boldly attest to be; and

WHEREAS, for the well-being of the citizens of Alabama, the determination of who is smarter, stronger, sharper, or correctly put, more stubborn, should be played out not within the confines of our legislative chambers, but rather within the baselines of an appropriate field of honor, where defense is played with a glove, not a filibuster; bats, rather than votes are used to score; hits mean advancement, not destruction; players mean teammates, not those with influence; and concession means food, not compromise; and

WHEREAS, Auburn University Montgomery has kindly offered its baseball complex as a summit site for a winner-take-all softball game between the House of Lords and the House of Commons; further, AUM has foolishly committed to making this unimaginable display of ineptitude and lack of sportsmanship an annual event, and has imprudently promised barbecue and refreshments prior to the game, an offer which ensures that all participants will be at full speed for the big contest; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That by the adoption of this resolution, both Houses accept this regrettable invitation and agree to participate in the First Annual "House of Lords versus House of Commons" Alabama Legislative Softball Game to be held at the AUM Baseball Complex on the evening of Wednesday April 8, 1998.

BE IT FURTHER RESOLVED, that a copy of this resolution be forwarded to the offending parties at Auburn University Montgomery, so that they may be fully alerted of this impending comedy of errors, strike-outs, and embarrassment!

Approved April 16, 1998

Time: 2:54 P.M.

Act No. 98-318

H. 117 – Rep. Carns

AN ACT

To permit Class 6 cities to grant partial or complete exemptions from real estate ad valorem taxes imposed by such cities, except real estate ad valorem taxes allocated for educational purposes, for a period of not more than 15 years, for parcels of land located within the cities; and to grant partial or complete exemptions from occupational license fees, for a period of not more than 15 years, to persons employed within the cities.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply to all Class 6 cities as defined in Section 11-40-12 of the Code of Alabama 1975. As used in this act, the term “governing body” shall mean the city council or other governing body of any city subject to this act; and the term “city real estate ad valorem taxes” shall mean all real estate ad valorem taxes imposed by a city which is subject to this act except real estate ad valorem taxes allocated for educational purposes.

Section 2. The governing body of any city which is subject to this act may, by the adoption of a resolution or an ordinance, grant a partial or complete exemption from city real estate ad valorem taxes for any parcel of land located within the city, for a period of not more than 15 years. The extent of the exemption and the period of the exemption shall be fixed in the resolution or ordinance.

Section 3. The governing body of any city which is subject to this act may, by the adoption of a resolution or an ordinance, exempt, from occupational license fees, in whole or in part, all persons employed upon certain designated parcels of land located within the city, for a period of not more than 15 years. The extent of the exemption and the period of the exemption shall be fixed in the resolution or ordinance.

Section 4. No provision of this act shall prevent the governing body of the city from assessing and collecting a privilege or license tax or fee from every person, firm, company, or corporation engaged in, or carrying on, any business, profession, trade, vocation, or occupation

on a parcel of land exempt from city real estate ad valorem taxes under this act, except that no occupational license fee may be assessed against, or collected from, persons who have been exempted from occupational license fees under Section 3 of this act, to the extent, and during the period of, the exemption.

Section 5. The provisions of this act are severable. If any section, clause, or provision of this act shall be held invalid or unenforceable, such holding shall not invalidate or render unenforceable any other section, clause, or provision of this act

Section 6. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 16, 1998

Time: 2:55 P.M.

Act No. 98-319

H. 128 – Rep. Letson

AN ACT

Relating to the public schools; to honor the life and public service of Representative Sam Letson of Lawrence County, deceased, by establishing the framework for "Letson Grants"; to authorize the Legislature to make appropriations in any amount it deems appropriate for Letson Grants; to define certain terms; to establish the rules and procedures for applying for, disbursing, and receiving grants; to rename the "Alabama Education Foundation for Kindergarten through Grade Twelve Public Schools" to the "Foundation for Local Schools"; to conform to changes provided in this law provisions relating to the funds of the foundation concerning investment, withdrawal, reinvestment of earnings, expenditure restrictions, withdrawal timelines, incorporation and certificate of incorporation, and procedures in instances of closure or merger of a school system; to provide for the refunding of the principal sum and interest upon petition; to provide for treatment of community schools; to provide for the dissolution of the foundation; to specify the duties of the State Superintendent of Education and the Chief Executive Officer of the Teachers' Retirement System; to permit the acceptance of private gifts; to specify the board of control as the incorporator of the foundation; to amend Sections 5-23-4 and 5-23-5, Code of Alabama 1975, so as to alter distribution of the proceeds of the state credit card program and to give the financial institution which administers the state-sponsored credit card program permission to name or rename the credit card; to amend Sections 16-26C-1, 16-26C-2, 16-26C-4, 16-26C-6, 16-26C-8, 16-26C-9, and 16-26C-13, Code of Alabama 1975, relating to the Alabama Education Foundation to establish further provisions; and to repeal Section 16-26C-5, relating to the Board of Trustees of the Alabama Education Foundation for Kindergarten through Grade Twelve Public Schools; and to provide for a delayed effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Definitions. When used in Sections 1 to 10, inclusive, of this act and Chapter 26C of Title 16 of the Code of Alabama 1975, the following words shall have the following meanings:

(1) **BOARD OF CONTROL.** The Board of Control of the Foundation for Local Schools is the same as the Board of Control of the Teachers' Retirement System of Alabama.

(2) **BOARDS OF EDUCATION or LOCAL BOARDS or LOCAL SCHOOL SYSTEMS.** Any county or city public school system.

(3) **CHIEF EXECUTIVE OFFICER OF THE TEACHERS' RETIREMENT SYSTEM.** The Chief Executive Officer of the Teachers' Retirement System of Alabama, or his or her designee.

(4) **COMMUNITY OR NEIGHBORHOOD SCHOOL.** Any individual public school under the authority, control, and supervision of a county or city board of education.

(5) **FOUNDATION.** The Foundation for Local Schools.

(6) **LOCAL SUPERINTENDENT.** The chief executive officer of a local school system.

(7) **PUBLIC SCHOOLS.** Grade Kindergarten through Grade Twelve of those public county and city school systems under the auspices of the State Board of Education.

(8) **STATE SUPERINTENDENT.** The State Superintendent of Education for the public schools, or his or her designee.

(9) **TRUST FUND.** Any local trust fund or local foundation fund by whatever name established on behalf of or to the benefit of the local school system and recognized by the school board, not to exceed one recognized trust fund per school system; or, the board of trustees of the trust fund on behalf of a school system.

Section 2. (a) Sam Letson Honorarium and Memorium. In honor of the life and public service of Representative Sam Letson of Lawrence County, deceased, the Legislature may, from time to time, appropriate monies to the Foundation for Local Schools. The appropriated funds shall be known and may be cited as "Letson Grants."

(b) Dedication and Disbursement of Letson Grants. Any funds which the Legislature may appropriate for Letson Grants shall be credited to those local school systems or trust funds according to the standards, prerequisites, and regulations which shall be adopted by the board of control. The disbursement of Letson Grant monies to the account of a school system or trust fund applying for a grant shall be based on average daily membership as provided in Section 16-13-231, Code of Alabama 1975. The local superintendent of education shall be responsible for making application to the secretary of the foundation for a Letson Grant for either the school system or trust fund, or both, in compliance with the requirements, standards, and prerequisites of the board of control.

Section 3. Section 16-26C-6, Code of Alabama 1975, is amended to read as follows:

“§16-26C-6. Purpose of the foundation.

“The purpose of the foundation shall be to promote academic excellence in Alabama’s public schools and to aid and assist in any undertaking in connection with such promotion. The foundation shall receive, invest, maintain, and apply the investment income and principal of donated monies for educational and eleemosynary purposes, related to the promotion, development, enhancement, and growth of the public schools in Alabama.”

Section 4. Section 16-26C-9, Code of Alabama 1975, is amended to read as follows:

“§16-26C-9. Management and disbursement of assets and earnings.

“(a) Investment by the TRS. All gifts, grants, devises, and bequests to the foundation whether from individuals, associations, corporations, companies, or governmental entities, including local boards of education, shall be deposited by the foundation with the Teachers’ Retirement System of Alabama. The retirement system shall invest and reinvest such donations and all income therefrom using the same guidelines used for its own monies. The foundation shall insure that the retirement system maintains such records as to separately account for the foundation’s monies, both the principal sum deposited and investment income, by school system or trust fund, as the case may be. The foundation shall be responsible for authorizing the retirement system to make disbursements of investment income to pay administrative expenses and for investment or reinvestment.

“(b) Withdrawals, reinvestment of earnings, expenditure restrictions. Any school system or recognized trust fund may withdraw annually up to 80 percent of the investment income generated from any account held by the Teachers’ Retirement System for the foundation in its name; however, the minimum eligible investment income distribution shall be at least five hundred dollars (\$500) annually. Should a trust fund request a withdrawal of more than 80 percent of its investment income in any year, the board of control shall establish and charge an appropriate and reasonable administrative fee. Any monies withdrawn by school system may be expended for classroom supplies or equipment, equipment for science or mathematics laboratories, vocational equipment, computer hardware or software, or any other equipment or supplies directly related to student instruction. Any monies withdrawn by a trust fund may be expended for the benefit of the public schools, for scholarships, or as otherwise stipulated for public education as provided by the trust fund’s board of trustees.

Should any question arise about a school system's expenditure, the question shall first be placed before the secretary of the foundation for his or her decision. Disagreements with the secretary's decision may be appealed to the board of control and the decision of the board shall be final. None of the school system's funds may be expended for salaries, maintenance of the physical plant, or the ordinary operating expenses of a school system. Twenty percent of the income for each account shall be transferred annually by the Teachers' Retirement System to the principal sum so as to create a perpetual trust for the benefit of the school system or trust fund, as the case may be. Any income eligible for disbursement which is not withdrawn at the end of the year shall be transferred to the principal sum. Any capital gains from investment shall become a part of the principal sum.

"(c) **Withdrawal timelines and procedures.** Any school system wishing to make a withdrawal of its account's investment income shall make the request on the appropriate authorized form. The local superintendent shall have approval authority for all withdrawal requests from the school system's account, subject to review by the local school board. Requests for withdrawals from the trust fund's account shall be made by the trust fund's president or chairperson, subject to review and approval by the trust fund's board. All requests for withdrawal shall be made only once annually. The treasurer shall disburse once annually the investment income approved by the foundation as soon as practical. Investment income which is not withdrawn but carried over from year to year in the account of a school system shall be retained in the school system's account to be expended as provided in this chapter. A trust fund may, at its discretion, withdraw any or all of its investment income assets upon prior notification to the treasurer. The prior notification of the withdrawal of the trust fund's investment income from the trust fund shall be made by the chairperson of the trust fund, with proper documentation of authorization from the trust fund's board of trustees, and the prior notification shall consist of at least six months. The treasurer of the foundation may waive the notification period in unusual circumstances.

"(d) **Principal Sum Refunded to School Systems Upon Petition.** Should a local school system deposit any principal sum to the foundation, the Teachers' Retirement System shall receive and invest the monies as provided in this chapter, but the treasurer shall refund to the local school system the principal sum deposited upon petition by the board making the deposit. However, the principal sum shall be retained and invested by the Teachers' Retirement System for at least five years after initial receipt of the deposit before any petition for refund is granted by the treasurer, unless the treasurer grants a waiver due to unusual circumstances. If a petition for a refund of the principal sum is submitted by a school system, only the principal

sum deposited emanating from the local school system shall be eligible to be refunded. All other deposits shall be ineligible to be refunded. The previously earned investment income shall remain in the foundation to the credit of the designated school system and remain subject to the provisions of this chapter.

“(e) Principal Sum and Interest Returned to Trust Funds Upon Petition. Should a trust fund deposit any principal sum to the foundation, the Teachers’ Retirement System shall receive and invest the monies as provided in this chapter. In the event that the board of the trust fund making a deposit desires a refund of its monies, the board shall file a petition for refund with the treasurer. The principal sum deposited emanating from the trust fund, together with all investment income, shall be refunded to the trust fund at the request of the board. If the petition for refund is filed within five years from the date of the initial deposit of the principal sum, the treasurer may withhold from such refund monies an amount equal to the amount of any penalties paid by the Teachers’ Retirement System for the early withdrawal of such monies. If a petition for a refund of the principal sum is submitted by a trust fund, only the principal sum deposited emanating from the trust fund shall be eligible to be refunded unless the trust fund specifically requests that part or all of the investment income also is to be withdrawn. Unless so stipulated in the request, the previously earned investment income shall remain in the trust fund’s account and remain subject to the provisions of this chapter.

“(f) Community Schools. Community schools shall not have accounts with the foundation which are separate from the account of a school system, but may, at the local school system’s discretion, be allowed to establish an account at the local school system level for investment by the foundation. Should a community school have an established account with the local school system, the account shall be separately and distinctly established by the school system for the specific community school. Monies held in the trust fund account for a community school may be included in the school system’s account with the foundation, and investment income, when distributed, shall be distributed to the benefit of the community school by the local school system. It shall be the responsibility of the local school system to keep a record of the assets and disbursements of any account established for the benefit of a community school. The provisions of this chapter shall apply to the expenditure of investment income for community schools.

“(g) Closures and mergers of school systems and trust funds. In the event of a closure or merger of a school system which has monies on deposit with the foundation, the local superintendent shall send written notice of such event to the foundation with a suggested disposition of the funds held for the school system. The board of control shall

have authority to accept or reject such suggestion after due consideration. The board of control shall have authority to determine final disposition of the monies. The decision of the board of control shall be final and binding and not subject to appeal. In the event a trust fund dissolves leaving monies in the foundation, the monies remaining in the trust fund's foundation account shall inure to the credit of the school system which has given the trust fund official recognition."

Section 5. Section 16-26C-13, Code of Alabama 1975, is amended to read as follows:

"§16-26C-13. Dissolution of the foundation.

"In the event of dissolution, which may be accomplished only by legislative act, the residual assets of the foundation shall be disbursed by the State Comptroller as follows:

"(1) School Systems. Those monies remaining in the accounts of the various school systems shall be given to the State Board of Education for disbursement to each designated school system and shall be expended by each local board of education per school based on the previous year's average daily membership. Funds shall be spent only on those items which are specifically enumerated in Section 16-26C-9.

"(2) Trust Funds. Those monies remaining in the accounts of the various participating trust funds shall be returned in whole to the treasurer of each applicable trust fund."

Section 6. (a) Duties of the State Superintendent. The duties of the State Superintendent shall include all of the following:

(1) Serve as the secretary of the foundation.

(2) Maintain a list of the school systems and trust funds participating in the foundation.

(3) Solicit and encourage participation in the foundation from non-participating public school systems and trust funds at least once annually.

(4) Solicit appropriations as he or she may deem necessary and advisable from the Legislature or the State Board of Education, or both, or other public or private entities, or both, for the benefit and promotion of the foundation.

(5) Solicit additional support and contributions annually from participating school systems.

(6) Develop, print, and disseminate information and promotional materials as deemed appropriate and propitious for distribution to any entity, public or private, in support and promotion of the foundation.

(7) Seek contributions and other forms of support from private businesses, corporations, associations, individuals, trusts, and other private and public interests in support and promotion of the foundation.

(8) Receive applications for Letson Grants from local superintendents and trust fund presidents, when grant funds are available, determine the allocation amount for each applying school system and trust fund based on the criteria established by the Board of Control and the provisions of Chapter 26C of Title 16, of the Code of Alabama 1975, and transmit the report on allocation amounts to the treasurer.

(9) Work cooperatively with the Chief Executive Officer of the Teachers' Retirement System to promote the foundation.

(10) Develop the necessary forms, in conjunction with the treasurer, for deposits, withdrawals, and refunds from the foundation, as well as develop and disseminate other forms as he or she may deem appropriate.

(11) Notify the treasurer of closures and mergers of school systems and trust funds and the appropriate disposition of the account assets of these closed systems and trust funds.

(12) Perform other duties as he or she may deem appropriate for the benefit and promotion of the foundation.

(b) Duties of the Chief Executive Officer of the Teachers' Retirement System. The duties of the Chief Executive Officer of the Teachers' Retirement System of Alabama shall include all of the following:

(1) Serve as the treasurer of the foundation.

(2) Receive monies from any source for the foundation.

(3) Manage and invest the monies on deposit with the foundation.

(4) Maintain a proper accounting of the funds in the accounts of the foundation.

(5) Work cooperatively with the State Superintendent to promote the foundation.

(6) Cause an annual report to be issued on the financial status and successes of the foundation, including an itemized listing of each account and its assets.

Section 7. Section 16-26C-1, Code of Alabama 1975, is hereby amended to read as follows:

"§16-26C-1. Legislative findings and intent.

"The Legislature finds and declares that it is necessary, desirable, and in the best interests of the future of the state that the children of Alabama receive the best education possible within the limited resources available. The Legislature also recognizes that individuals, businesses, and corporations interested in enhancing the educational programs of public schools hold considerable wealth. It is the intent of the Legislature by passage of this chapter to authorize the formation of a public corporation to encourage and promote private giving, the creation of perpetual trusts, and the prudent investment of available funds, from any source, to enhance the achievement of academic excellence in Alabama's public schools."

Section 8. Section 16-26C 2, Code of Alabama 1975, is amended to read as follows:

"§16-26C-2. Incorporation authorized.

"The board of control may become a corporation with the power and authority hereinafter provided by proceeding according to the provisions of this chapter. This corporation shall be known as the Foundation for Local Schools. The provisions of this section may be met by changing the name of the original corporation from "The Alabama Education Foundation for Kindergarten through Grade Twelve Public Schools" to the "Foundation for Local Schools."

Section 9. Section 16-26C-4, Code of Alabama 1975, is amended to read as follows:

"§16-26C-4. Certificate of Incorporation.

"When the application has been made, filed, and recorded as herein provided, the applicants shall constitute a corporation under the name of the Foundation for Local Schools and the Secretary of State shall make and issue to the applicants a certificate of incorporation, under the Great Seal of the State, and shall record the certificate with the application. No fees shall be paid to the Secretary of State for any work in connection with the incorporation of the corporation, which is hereinafter sometimes called "the foundation."

Section 10. Section 16-26C-8, Code of Alabama 1975, is amended to read as follows:

"§16-26C-8. Acceptance of Appropriations, gifts, and grants.

"The foundation may seek and accept private gifts, devises, grants, or bequests and hold or expend the same to carry out the provisions of this chapter. The foundation may also accept appropriations or grants from the state, any county, any municipality, any local board of education, any local public school under the control of a local board of education, or any organized group recognized by a local school such as a local parent-teacher organization or school booster

club. The foundation may hold or expend the monies to carry out the provisions of this chapter. The State Comptroller shall transmit to the treasurer the funds which the state Legislature may from time to time appropriate to the foundation."

Section 11. Section 5-23-4, Code of Alabama 1975, is amended to read as follows:

"§5-23-4. Proceeds.

"The net proceeds of the state fees shall be transmitted to the State Comptroller and distributed as follows:

"(1) Seventy-five percent to the Foundation for Local Schools as provided in Chapter 26C of Title 16, to be allocated to the credit of local school systems.

"(2) Twenty-five percent to the Penny Trust Fund as established by Amendment 512 of the Constitution of Alabama of 1901, and by Chapter 15A of Title 41."

Section 12. Section 5-23-5, Code of Alabama is amended to read as follows:

"§5-23-5. Rules and regulations.

"The State Treasurer is authorized to adopt such rules and regulations as may be necessary to implement the Alabama state-sponsored credit card program. The rules may include, without limitation, provisions governing the procedures for contacting financial institutions to determine if they would accept the state as a sponsoring entity for a credit card program and for negotiating, and collecting, the rate for the state's fee. The financial institution which administers the program may name or rename the card."

Section 13. Repealer. All laws or parts of laws which conflict with this act are repealed. Section 16-26C-5, Code of Alabama 1975, relating to the Board of Trustees of the Alabama Education Foundation for Kindergarten through Grade Twelve Public Schools is repealed.

Section 14. Severability. The provisions of this act are severable. If any part of this act is declared unconstitutional or invalid by a court of competent jurisdiction, the part which remains shall continue in effect.

Section 15. Effective Date. The provisions of this act shall become effective on October 1, 1998.

Approved April 16, 1998

Time: 2:56 P.M.

Act No. 98-320

H. 230 – Rep. Dolbare

AN ACT

Relating to textbooks for public schools; repealing Article 1, commencing with Section 16-36-1, of Chapter 36 of Title 16 of the Code of Alabama 1975, and recasting the law relating to textbooks; providing for the creation, composition, and operation of the State Textbook Committee and penalties for certain prohibited disclosures; providing for the adoption of textbooks by the State Board of Education, based upon recommendations of the State Textbook Committee, and prohibiting local boards of education from adopting textbooks which have been rejected by the state board, and prescribing certain penalties; providing for the creation and operation of local textbook committees; specifying the bidding and contractual process; requiring certain officials to submit affidavits regarding conflicts of interest and specifying criminal penalties regarding these conflicts; providing for special textbooks, providing for the purchasing of textbooks by local boards of education and local governing bodies, and for the accounting, inventory, audit, storage, care, and use of the textbooks; expressing certain legislative findings; and amending Sections 16-6B-10, 16-61C-2, 21-1-24, and 21-1-25 of the Code of Alabama 1975, to conform to this act.

Be It Enacted by the Legislature of Alabama:

Section 1. State Textbook Committee

(a) The State Textbook Committee is created. The committee shall consider the merit of textbooks offered for use in the public elementary and high schools of the state and make recommendations for approval or rejection, or both, to the State Board of Education as hereinafter provided. In making recommendations to the State Board of Education, the State Textbook Committee shall also consider any recommendations made by the Committee on Courses of Study or by the State Superintendent of Education.

(b) The State Textbook Committee shall be composed of 23 members. Four of the members shall be secondary school classroom teachers and four elementary school classroom teachers. One of these eight members shall be appointed from each of the seven United States Congressional Districts, as such districts are constituted on the effective date of this act, and one shall be appointed statewide. Four members shall be appointed from the state at large, and these four members may be either classroom teachers or persons actively engaged in the supervisory or administrative capacity in the field of education. Two members of the committee shall be employees of state institutions of higher learning. These 14 members of the State Textbook Committee shall each be appointed by the State Board of Education, upon nominations made by the State Superintendent of Education. Nine members shall be appointed by the Governor, subject to the confirmation of the Senate by April 1 of each year, one from each of the seven congressional districts, as such districts are constituted on the effective date of this act and two appointed statewide and, these two shall be members of local boards of education at the time of their

appointment. Two of the members appointed from the congressional districts shall be recommended by the State Superintendent of Education. These nine additional members shall have general knowledge of the subject area to be considered for textbook adoption and shall have a demonstrated ability to read and write at a post high school level and shall not be employed in education.

Membership of the State Textbook Committee shall be inclusive and shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(c) All members of the State Textbook Committee shall be appointed for terms of one year, beginning at the call of the State Superintendent of Education. The committee shall be subject to recall by the State Superintendent of Education, thereby extending the length of the member's term, until a new committee is appointed for consideration of the same subject area or areas or grade or grades or any combination thereof. Vacancies in the office of any of the committee members shall be filled by the original appointing authority, and the appointee shall hold office for the unexpired term and until his or her successor is appointed and qualified.

(d) In order to qualify as a member of the State Textbook Committee, each person appointed shall prepare an affidavit to be filed with the State Board of Education within 10 days after notice of the member's appointment stating each of the following:

(1) The member agrees to discharge faithfully all the duties imposed upon him or her as a member of the State Textbook Committee.

(2) The member has no interest, directly or indirectly, in any contract that may be made under this act.

(3) The member has no interest as author, as associate author, as publisher, or as a representative of the author or publisher of any textbook.

(4) The member has no pecuniary interest, directly or indirectly, in the business or profits of any person, firm or corporation engaged in manufacturing, publishing, or selling textbooks.

(5) The member agrees not to accept any emolument or promise of future reward of any kind from any publisher of textbooks, the publisher's agents or anyone interested in or intending to bias the member's judgment in any way in the selection of any textbook up for adoption.

(6) The member agrees not to reveal to anyone, except to the State Board of Education or the State Superintendent of Education,

or both, the findings, ratings, or grading of the State Textbook Committee.

(e) It shall be a misdemeanor for any member of the State Textbook Committee or the secretary of the committee, or for any other person, to disclose ratings and gradings of the committee to anyone except to the State Board of Education or the State Superintendent of Education, or both, until after the contracts are made. Anyone found guilty of doing so shall be fined not exceeding five hundred dollars (\$500) and also may be imprisoned or sentenced to hard labor for a term not exceeding six months.

(f) The organizational meeting of each State Textbook Committee shall be called by the State Superintendent of Education and the committee shall meet thereafter on call of the chairperson of the committee or of the State Superintendent of Education. At the organizational meeting, the State Textbook Committee shall elect one of its members to act as chairperson of the committee and one of its members as secretary of the committee. Other necessary meetings shall be held as determined by the State Textbook Committee or upon the call of the chairperson or the State Superintendent of Education. The State Superintendent of Education shall notify the members of the committee of each meeting by registered or certified mail prior to the time of the meeting.

(g) The members of the State Textbook Committee shall be paid per diem expenses at the rate provided by state law during the time they are engaged in such work and in addition shall receive travel expenses at the rate provided by state law for each mile traveled from home to the place of meeting and return, to be paid out of appropriations made to the State Department of Education. Each member of the committee, before receiving per diem for expenses, shall submit to the State Superintendent of Education a notarized statement of the number of miles traveled and the number of days engaged in such work. No member shall be paid for more than 25 days in any school year.

(h) The State Textbook Committee shall make textbook recommendations to the State Board of Education in writing, and both recommendations for approval or rejection, or both, and these recommendations and any dissents therefrom shall be filed with the State Board of Education and shall be made available for public inspection upon filing. The State Textbook Committee may recommend any new material which has been properly bid pursuant to this act, which supports the Alabama Course of Study for the specific subject, and which is defined as a textbook as prescribed in the rules and regulations of the State Board of Education. New material is defined as material published within three years from

the date the State Board of Education begins advertisement for bids for textbooks which shall be considered for adoption by the State Board of Education.

Section 2. Adoptions.

(a) Based upon the recommendations of the State Textbook Committee, the State Board of Education shall adopt textbooks from which local boards of education may adopt for use in their systems. Local boards of education shall not adopt textbooks nor expend public funds for textbooks that have been rejected by the State Board of Education, except for the length of an existing local contract approved by the State Superintendent. Members of any local board found doing so shall be guilty of a misdemeanor and fined not exceeding five hundred dollars (\$500) and also may be imprisoned or sentenced to hard labor for a term not exceeding six months.

(b) The State Board of Education shall divide the subjects of study in the public schools so that all textbooks on a given subject for grades kindergarten through 12 shall be considered for adoption in one year. New adoptions made during any year shall not be used in the public schools until the next ensuing scholastic year.

(c) The adoption schedule for each subject area shall be determined by the State Superintendent of Education based on the Courses of Study development schedule, knowledge-base changes, financial considerations, the need for staggered adoption schedules, needs expressed by the local superintendents, contract expiration dates, and other factors deemed appropriate by the State Superintendent of Education.

(d) Prior to adoptions by the State Board of Education, members of the public shall be allowed a reasonable amount of time to be heard concerning any book recommended for adoption or rejection. Adoption or rejection, or both, of textbooks shall be made only at a public meeting of the State Board of Education. Notice of the time and place of the meeting of the State Board of Education to consider adoptions or rejections, or both, shall be given for at least 30 days, by notice to news media and by posting a notice on a bulletin board or in some other conspicuous place in the offices or public rooms of the State Department of Education.

Section 3. Local Textbook Committee.

(a) A local textbook committee or committees shall be appointed by each separate local board of education. The number, size, and composition, which shall include parents, of the committee or committees shall be determined by each local board of education. A copy of local school board policies in regard to local textbook

committees shall be kept on file by each local superintendent. Names of each person serving on a local textbook committee shall also be kept on file by each local superintendent.

(b) In order to qualify as a member of the committee, each member of the local textbook committee and its secretary shall prepare an affidavit to be filed with the local board of education within 10 days after notice of the member's appointment stating each of the following:

(1) The member agrees to discharge faithfully all the duties imposed upon him or her as a member or as secretary of the textbook committee.

(2) The member has no interest, directly or indirectly, in any contract that may be made under this act for the purchase of textbooks.

(3) The member has no interest as author, as associate author, as publisher, or as a representative of the author or publisher or any textbooks.

(4) The member has no pecuniary interest, directly or indirectly, in the business or profits of any person, firm, or corporation engaged in manufacturing, publishing, or selling textbooks.

(5) The member agrees not to accept any emolument or promise of future reward of any kind from any publisher of textbooks, the publisher's agent, or anyone interested in or intending to bias the member's judgment in any way in the selection of any textbook for adoption.

(c) Members shall serve for terms of one year.

(d) The local textbook committee shall meet on call of the chairperson of the local board of education for the purpose of recommending textbooks to the local board of education from the list of adoptions by the State Board of Education or from a list submitted to the committee for consideration by the local superintendent or his or her designee, or from both lists. Textbooks which have been rejected by the State Board of Education shall not be considered for future adoption by the local board of education, except for the length of an existing local contract approved by the State Superintendent. The recommendations of a local textbook committee shall be by majority vote for each textbook. No textbook shall be used in any public school of this state unless recommended by a local textbook committee and, upon the recommendation of a local superintendent, adopted by the local board of education.

(e) The adoption of a textbook by a local board of education shall be by majority vote of the local board of education and shall be for a

period determined by the State Superintendent of Education. Not later than 30 days after the date of the local adoption, the local superintendent of education shall file a report with the State Superintendent of Education listing the title, the name of the author, the publisher, and the date of adoption of the textbook with verification to the State Superintendent that all procedures described in subsection (d) have been followed. This procedure shall apply each time a textbook is adopted for use in a local school or school system.

(f) Publisher shall furnish samples of all state-adopted textbooks to each local board of education for evaluation by the local textbook committee. One copy of each textbook adopted by the local textbook committee shall be retained by the local board of education as an official sample. All samples not adopted by the local boards shall be returned to the publishers at the expense of the publishers, and samples of those books adopted shall become the property of the local boards of education. If the publisher fails to reclaim samples of nonadopted books within 90 days, the sample books shall become the property of the local board of education.

(g) Any textbook publisher that solicits a local textbook committee or local board to adopt their textbooks and has not participated in the state adoption process shall provide the reason for not participating in the state adoption process in writing to the local textbook committee and local board at the time of the solicitation. A copy of the document submitted to the local textbook committee and the local board of education shall also be sent to the State Superintendent of Education.

Section 4. Bids for Statewide Textbook Contracts.

(a) Each year, before the organizational meeting of the State Textbook Committee, the State Board of Education, through the State Superintendent of Education, shall advertise in such manner and for such length of time and at such places as considered advisable, that at a certain time and place determined by the State Board of Education sealed bids or proposals shall be received from publishers for furnishing school textbooks. Publishers and individuals may request an invitation to bid by writing the State Superintendent of Education. The State Board of Education may include additional regulations in the bid form that the State Board of Education deems best for the administration of this act. Any regulations included in the bid forms and accepted by the publisher shall be construed as a part of this act. The bids or proposals for each book shall be based upon a contract period determined by the State Superintendent of Education and shall be accompanied by a specimen copy of each book proposed to be furnished.

(b) Each publisher who makes a bid or proposal to furnish school textbooks shall be required to deposit with the State Treasurer a sum

of money in an amount required by the State Board of Education, but not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500), according to the number of books the bidder proposes to supply. If the bidder making the deposit shall fail or refuse to make and execute the contract and required bond, the sum shall be forfeited absolutely to the State Board of Education for the use of the State Board of Education for purposes enumerated in this act. The time within which the contract and bond shall be executed shall be stated in the advertisement inviting bids or proposals. All bids shall be sealed and deposited with the State Superintendent of Education to be opened at a time designated by the superintendent, provided bidders have been given reasonable notice in advance.

(c) Publishers shall furnish samples of each textbook submitted for adoption to each member of the State Textbook Committee in order that each member may also seek evaluations from others. All samples of books not adopted by the State Board of Education shall be returned to the publishers at the expense of the publishers, and those adopted shall become the property of the State Department of Education. If the publisher fails to reclaim a sample book within 90 days, the sample book shall become the property of the State Department of Education.

Section 5. Statewide Textbook Contracts.

(a) No contract shall be made pursuant to this act for the purchase of textbooks rejected by the State Board of Education. The only contracts entered into by the State Board of Education pursuant to this act shall be for textbooks considered by the State Textbook Committee and adopted by the State Board of Education as provided for in this act.

(b) In addition to all other laws which forbid the use of textbooks in the public schools of the state by authors who are members of the Communist Party or members of communist front organizations, all contracts with publishers for textbooks made pursuant to this act shall stipulate that the author or authors of such book or books is not a member of the Communist Party or known advocate of communism or Marxist socialism and is not a member of a communist front organization.

(c) The maximum price at which the State Board of Education shall contract for local boards of education to pay f.o.b. the local board of education for any books to be used in the public schools of this state, after all discounts have been deducted, shall not exceed the minimum price at which the publisher sells such books in wholesale quantities f.o.b., the publisher's publishing house, after all discounts have been deducted. Any contract made for the purchase of books for use in the public schools of this state at a price higher than such determined maximum shall be void.

(d) Every contract entered into under this act by the State Board of Education on behalf of the local boards of education and any publisher or publishing company shall contain a provision that the publisher covenants and agrees to all of the following:

(1) The publisher is not furnishing under contract executed after the first day of January of the year in which the contract becomes effective, to any state, county, or school district in the United States the textbooks embraced in the contract at a price below the price stipulated in the contract.

(2) If at any time during the period of the contract the textbooks named in the contract shall be contracted for at a price to any state, county, or school district in the United States, lower than the price agreed upon in the contract, then that lower price shall become the contract price between the State Board of Education on behalf of the local board of education and the publisher named in the contract.

(3) If, at any time during the period of the contract, any editions of the textbooks named in the contract substantially similar to the official copy on file in the office of the State Superintendent of Education shall be contracted for at a lower price with any state, county, or school district in the United States, the State Board of Education may at its option substitute for the edition contracted for the substantially similar edition at the lower price.

(4) If the publisher offers any free or discounted ancillary items or services, or both, to any local board of education or any public school, the publisher shall offer the same free or discounted ancillary items or services, or both, to all local boards of education or schools under the same or similar circumstances.

(e) If the State Board of Education determines that any book or books contracted for are being sold at a lower contract price in any other state than the price for which the book or books are being sold to Alabama, the contract shall be forfeited. Each contract shall provide that in the event of violation of this pricing agreement, the contractor shall return all money collected for the books and also forfeit the book or books to the respective local boards of education, this being the agreed measure of damages stipulated to have been suffered by the State Board of Education and the local boards of education. Action may be brought in the name of the state on the bond of the contractor for all losses sustained, and any sum recovered shall be deposited to the credit of the Education Trust Fund.

(f) Contracts with textbook publishers shall include all of the following:

(1) A provision that local boards of education shall be permitted to purchase with local funds textbooks for free distribution at

the same price at which the local boards of education are permitted to purchase such books with state funds.

(2) The publishers shall replace defective or substandard books without cost to the purchaser.

(3) Provisions for the time of deliver, penalties for delay in delivery, and other provisions as in the judgment of the State Board of Education will insure prompt delivery of all textbooks at the lowest possible price.

(g) In the case of the failure of any contractor to furnish the books as provided in this contract, the bond of the publisher shall be forfeited and the State Board of Education may contract for other books as needed. The State Board of Education may drop any textbook by giving written notice to the publisher at least 90 days in advance and upon the recommendation of the State Textbook Committee to make another adoption instead of the textbook.

(h) The State Board of Education, upon the recommendation of the State Superintendent of Education, may renew or extend contracts for no less than one year nor more than two years. This provision shall be made a part of the publishers contract, and the State Board of Education may exercise the provision by notifying the publisher in advance.

(i) The State Board of Education may include any additional regulations in the contract form that the State Board of Education deems best for the administration of this act, and any regulations included in the contract form and accepted by the publisher shall be construed as a part of this act. Publishers shall be required to comply with additional rules and regulations approved by the State Board of Education as if they were included in this act.

(j) The State Superintendent of Education shall preserve in the offices of the State Department of Education or in another suitable location, one copy of each book which has been made the basis of any contract as the standard specimen of quality and excellence to be maintained in such books during the period of the contract.

Section 6. Use of Statewide Textbook Contracts.

(a) Upon receipt of requisitions from the State Superintendent of Education, the State Purchasing Agent shall, in accordance with existing statutes and procedures governing state purchases, issue statewide purchase contracts upon which local boards of education shall issue local purchase orders to the publishers who shall ship the books ordered to the local board of education, shipping charges prepaid.

(b) The State Department of Education in conjunction with the State Purchasing Agent shall furnish contracts from which

state-adopted textbooks for the pupils and teachers in classrooms and schools operated under the jurisdiction and supervision of the Alabama Department of Mental Health and Mental Retardation can be purchased. These purchased shall be made from appropriations to the State Department of Mental Health and Mental Retardation. The State Board of Education may make and enforce regulations for the proper care and accounting for such textbooks.

(c) The State Department of Education in conjunction with the State Purchasing Agent shall furnish contracts from which state-adopted textbooks for the pupils and teachers in classrooms and schools operated under the jurisdiction of the Alabama Institute for Deaf and Blind can be purchased. These purchases shall be made from appropriations to the Alabama Institute for Deaf and Blind. The State Board of Education may make and enforce regulations for the proper care and accounting for these textbooks and shall not be required to purchase and furnish special books or materials for the deaf and blind.

(d) The State Department of Education in conjunction with the State Purchasing Agent shall furnish contracts from which state-adopted textbooks for the pupils and teachers in classrooms and schools operated by the Department of Youth Services can be purchased. The cost of the textbooks provided herein shall be paid from appropriations to the Department of Youth Services. The State Board of Education may make and enforce regulations for the proper care and accounting for these textbooks and shall not be required to purchase and furnish any special books or materials under this section.

(e) The State Board of Education shall have no power or authority to enter into any contract or arrangement for furnishing textbooks or providing a depository for textbooks or delivering textbooks.

Section 7. Required Affidavits for the State Board of Education and Local Boards of Education.

(a) The State Superintendent of Education, members of the State Board of Education, local superintendents of education, and members of local boards of education shall not do any of the following:

(1) Possess an interest, directly or indirectly, in any contract that might be made pursuant to this act for the purchase of textbooks by the state or local boards of education.

(2) Possess any interest as an author, an associate author, a publisher, a representative or agent of an author or of a publisher of any textbook.

(3) Possess any pecuniary interest, directly or indirectly, in the business or profits or any person, firm or corporation engaged in manufacturing, publishing, or selling of textbooks.

(4) Accept any emolument, promise of future reward or consideration of value of any kind from any publisher of textbooks or his or her agent.

(b) Each member of the State Board of Education and each member of all local boards of education shall prepare an affidavit as required by Section 3 in the case of members of local textbook committees.

(c) Any violation of this section shall be unlawful. Upon conviction of such a violation, the person shall be subject to a fine not exceeding ten thousand dollars (\$10,000) or five years in the state penitentiary, or both, and his or her office as a superintendent, or as a member of the State Board of Education or member of a local board of education shall be forfeited.

Section 8. Special Textbooks.

(a) It shall be the duty of the State Board of Education to negotiate with publishers of textbooks or authors of textbooks for the preparation and publication, or either, of special textbooks for use in the public schools of the state. If anyone undertakes the preparation of a special textbook for the purpose of making the textbook more suitable and desirable for use in the public schools of the state, the State Superintendent of Education shall submit the specially prepared textbook or specially arranged textbook to the State Textbook Committee for its findings and ratings as to its desirability and suitability for the purposes offered and these findings and ratings shall be certified to the State Board of Education for its consideration.

(b) If the State Board of Education is unable to obtain what it considers a desirable contract for a special textbook on any particular subject with publishers whose books have been given its approval, the State Board of Education may require the State Superintendent of Education to negotiate with publishers or persons to secure the preparation of a special textbook on the subject or to secure the submission of other texts on the subject for consideration by the State Textbook Committee. The State Board of Education may take other proper action to secure an advantageous contract in behalf of the patrons of the public schools of the state. No special textbook shall be adopted by the board of education unless the textbook has been considered for the purposed for which it was intended to be used by the State Textbook Committee.

Section 9. Purchasing Textbooks and Accountability for Textbooks.

(a) The local boards of education, county commissions, and municipal councils or other governing boards of a municipality may appropriate funds for the purpose of creating local revolving funds to be used in securing and distributing textbooks and for the purpose of contributing to the expense of furnishing textbooks. These revolving funds shall be reimbursed from moneys received from sales of textbooks.

(b) Local boards of education, county commissions, and other like governing bodies of the counties or municipalities may appropriate funds for the purpose of purchasing textbooks for free distribution or for rental to the patrons of its public schools under such rules and regulations as shall be prescribed by the respective local boards of education.

(c) All books contracted for shall be shipped upon purchase orders of the local boards of education. The publisher or publishing company shipping the books shall prepare triplicate invoices or bills for the books shipped. These invoices or bills shall be mailed to the local superintendent of education to whom the books are shipped.

(d) The local superintendent of education, upon receipt of any shipment of books as provided herein, shall forthwith determine if the shipment is in accordance with the invoices or bills. Payment shall be made by the local board of education for such purchase and charged against the Foundation Program funds distributed to the local board of education for such purposed or other funds available to the local board of education for such purposes.

(e) Each local board of education shall provide for the safe and dry storage and distribution of all new and used textbooks and, in the case of used textbooks, provide for the collection, storage, and maintenance, including necessary repairs, renovation and fumigation. The local boards of education shall also provide for the repair of used textbooks and, in compliance with the advice of the State Board of Health, the occasion for and manner of fumigation of used textbooks so as to protect pupils from any diseases which may be transmitted through the reissue of such textbooks.

(f) The local superintendent shall maintain at all times an accurate and up-to-date inventory and shall keep on file such accounting records as may be required or as necessary.

(g) The State Department of Examiners of Public Accounts shall make periodic audits of all accounting books and records pertaining to the textbooks which have been so furnished at state or local expense, requiring a complete accounting for all such textbooks as shown by the records.

Section 10. Use of Textbooks.

(a) All textbooks furnished free of charge to pupils shall be the property of the local board of education, as long as textbook funds are expended as prescribed by law.

(b) When distributed to pupils the textbooks shall be retained for normal use only during the period they are engaged in a course of study for which the textbooks are selected. At the completion of each course of study or otherwise at the instructions of the principal or teacher in charge, the textbooks shall be returned as directed. A receipt shall be required from each pupil, parent, or guardian upon issuance of any textbook, which receipt shall be retained until the return of the textbook.

(c) The parent, guardian, or other person having custody of a child to whom textbooks are issued shall be held liable for any loss, abuse, or damage in excess of that which would result from the normal use of the textbooks. In computing the loss or damage of a textbook which has been in use for a year or more, the basis of computation shall be a variable of 50 to 75 percent of the original cost of the book to the local board of education. If the parent, guardian, or person having custody of the child to whom the textbook was issued fails to pay the assessed damages within 30 days after notification, the student shall not be entitled to further use of the textbooks until remittance of the amount of loss or damage has been made.

(d) All remittances for damages or from the sale of textbooks shall be deposited to the credit of the local textbook fund and shall be used for the repair, maintenance, and replacement of textbooks.

(e) The respective local boards of education may waive the payment as provided in this section if in their judgment the respective parent or guardian is not financially able to make the payment. The local system shall contribute from local funds sums equal to the amount waived.

(f) Pupils enrolled in the public schools or any parent or guardian of the pupil may buy textbooks at the price paid for them by the local board of education. All contracts made with publishers shall so provide. Each local board of education may provide for the sale of such textbooks as may be needed by pupils for whose grades or courses free textbooks are not furnished. Sale of these textbooks may be made by the local board of education in the school system of which the pupil is enrolled. The local board of education may make such sales through a designated employee or agent thereof. No handling charge allowed from the sale shall inure to any member, officer, or employee of any local board of education.

(g) All books issued by the separate schools and school systems may be used by pupils to whom issued in the same manner and to the same extent as though the books were owned by the pupils, their parents, or guardians as the case may be, except that such pupils, parents, or guardians shall be liable for such loss or damage to books as provided in this section and for the return of the textbook.

(h) Any local agent, dealer, clerk, or other person handling or selling the books adopted as school textbooks, who shall demand or receive for any copy of any of the books so adopted more than the contract price shall be guilty of a misdemeanor and, upon conviction, shall for each offense be punished by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).

Section 11. Adequate Textbooks.

(a) The Legislature finds that textbooks and other instructional materials are among the basic tools of learning that must exist if Alabama students are to succeed.

(b) All students in the public schools shall be provided with adequate and current textbooks and other necessary instructional supplies for use in their education. Textbooks and other supporting materials shall be appropriate for their course work and shall be in suitable condition. Where textbooks are issued pursuant to Section 10, every student shall have his or her own copy of the issued textbook of the correct edition, which he or she shall be permitted to take home each day for home study for the entire school year or for the portion of the year when the book is issued.

(c) It is the intent of the Legislature that it is the student's responsibility, as well as the student's parent or guardian, to care for the textbooks and instructional supplies provided by the state in a manner so that the materials are not damaged to the point of being unusable.

(d) The State Department of Education has a continuing obligation to provide systems and schools with information about textbooks and other instructional materials, including computer software and technology-related materials. The State Textbook Committee shall ensure that textbooks recommended to the State Board of Education for approval support the appropriate course or courses of study.

(e) Instructional supplies, including library books and media resources, science equipment, classroom furniture, audiovisual equipment, maps and globes, chalkboards, art and music supplies, and other educational materials shall be provided in all schools in adequate form and quantity. It shall not be necessary for teachers

to make personal expenditures to provide the materials described in this section.

Section 12. Sections 16-6B-10, 16-61C-2, 21-1-24, and 21-1-25 of the Code of Alabama 1975, are amended to read as follows:

“§16-6B-10.

“(a) Foundation Program. – It is the intent of the Legislature to see that funds allocated for classroom instructional support actually reach the classroom. To that end, the State Department of Education shall monitor the flow of funds appropriated for various instructional purposes. Classroom instructional support shall be defined as those funds appropriated for instructions supplies, library enhancement, textbooks, technology and professional development. The Legislature believes that the classroom instructional support funds have a direct impact upon the ability of classroom teachers to have the resources and assistance necessary to assist them in the performance of their responsibilities. School budgets for instructional supplies shall be developed within each school as is required by Section 16-1-30 relating to the adoption of school board policies. It is the intent of the Legislature that teachers shall have direct input in the development of their school’s budget for classroom instructional support and in the expenditure of these funds. The Legislature realizes that teachers and principals cannot be held accountable unless they have the authority to use resources provided them by legislative appropriations. As each school’s budget is developed, local boards of education shall ensure principals and classroom teachers are given the opportunity to participate in decisions concerning the appropriate use and expenditure of classroom instructional support funds. Where the principal or the teachers have not been granted the right to have direct input in the development of their school’s budget or are restrained in the expenditure of instructional supply funds, they may petition the State Superintendent of Education for relief pursuant to rules and regulations promulgated by the State Department of Education. Because the Legislature believes classroom instructional support funds to be critically important, the following conditions will apply to the budgeting process of each local board of education:

“(1) Classroom instructional materials and supplies must be budgeted for all teachers at the rate appropriated per teacher unit by the Legislature in the Foundation Program.

“(2) Textbook funds must be budgeted for all students based on the rate appropriated per student by the Legislature in the Foundation Program.

“(3) Technology funds must be budgeted for all teachers based on their rate appropriated per teacher unit by the Legislature in the Foundation Program.

“(4) Professional development funds must be budgeted for all teachers based on the rate appropriated per teacher unit by the Legislature in the Foundation Program.

“(5) Library enhancement funds must be budgeted for all teachers based on the rate appropriated per teacher unit by the Legislature in the Foundation Program. The library enhancement appropriation shall be for K-12 Public School Library/Media Centers and is an absolute appropriation. Expenditures may include books, book binding, repair, CD Roms, computer software, computer equipment, cataloging, audio-visual materials, newspapers, magazines, recordings, and video tapes.

“(6) In addition to classroom instructional support, leave (sick and personal) must be budgeted for all teachers based on the number of days and the rate per day used by the Legislature in calculating the cost in the Foundation Program.

“(7) The principal of a local school in consultation with the teacher(s) so affected may request a waiver from subdivisions (2) through (5). The waiver shall be presented to the local superintendent of education. Upon concurrence, the local superintendent of education shall request a waiver from the State Superintendent of Education, which application shall be deemed to be granted unless affirmatively rejected in writing by the state superintendent within 30 days of its receipt.

“(b) Vocational/Technical Education Program. – It is the intent of the Legislature to see that funds allocated for classroom instructional support actually reach the classroom. To that end, the State Department of Education shall monitor the flow of funds appropriated for various instructional support which shall be defined as those funds appropriated for instructional supplies, textbooks, technology, and professional development. The Legislature believes that the classroom instructional support funds have a direct impact upon the ability of classroom teachers to have the resources and assistance necessary to assist them in the performance of their responsibilities. School budgets for classroom instructional support shall be developed within each school as it is required by Section 16-1-30. It is the intent of the Legislature that teachers shall have direct input in the development of their school’s budget for classroom instructional support and in the expenditure of these funds. The Legislature realizes that teachers and principals cannot be held accountable unless they have the authority to use resources provided them by legislative appropriations. As each school’s budget is developed, local

boards of education shall ensure classroom teachers are given the opportunity to make decisions concerning the appropriate use and expenditures of classroom instructional support funds. Where the principal or the teachers have not been granted the right to have direct input in the development of their school's budget or are restrained in the expenditure of classroom instructional support funds, they may petition the State Superintendent of Education for relief pursuant to rules and regulations promulgated by the State Department of Education. Because the Legislature believes classroom instructional support funds to be critically important, the following conditions will apply to the budgeting process of each local board of education:

"(1) Classroom instructional materials and supplies must be budgeted for all teachers at the rate appropriated per teacher unit by the Legislature in the vocational/technical education program.

"(2) Textbook funds must be budgeted for all students based on the rate appropriated per student by the Legislature in the vocational/technical education program.

"(3) Professional development funds must be budgeted for all teachers based on the rate appropriated per teacher unit by the Legislature in the vocational/technical education program.

"(4) In addition to classroom instructional support, leave (sick and personal) must be budgeted for all teachers based on the number of days and rate per day used by the Legislature in calculating the cost in the vocational/technical education program.

"(5) The principal of a local school in consultation with the teacher(s) so affected may request a waiver from subdivisions (2) and (3). The waiver shall be presented to the local superintendent of education. Upon concurrence, the local superintendent of education shall request a waiver from the State Superintendent of Education, which application shall be deemed to be granted unless affirmatively rejected in writing by the state superintendent within 30 days of its receipt

"§16-61C-2.

"The Legislature of the State of Alabama hereby finds:

"(1) That the Alabama Science in Motion Program (the ASIM Program) of six pilot networks, created by Act No. 94-673, to augment the science curriculum of the public schools, have demonstrated efficacy as a model in advancing the state's efforts towards the following goals and directives of the "Alabama Education Improvement Act of 1991."

“(2) That by the year 2000, Alabama students should be among the country’s leaders in mathematics and science achievement and that special attention be given to science in the Alabama course of study.

“(3) That the State Board of Education provide “a plan for the cooperative development and execution of research, demonstration, evaluation and dissemination of activities related to the effective use of technologies in teaching and learning”; and that these activities be carried out in cooperation with the existing Alabama Regional Inservice Centers and local school systems.

“(4) That the model is consistent and compatible with a coordinated educational technology plan; that it uses technology to improve teaching and learning; and that it uses technology to “improve efficiency in productivity in education administration.”

“The Legislature further finds that the Alabama Science in Motion Program is an effective and efficient model that furthers the state’s efforts to: (1) promote equity in the allocation of the state’s financial and educational resources among the several school systems of the state; (2) provide students of the public schools with adequate science laboratories, as provided for in Section 16-1-29(a) (2); and (3) provide students of the public schools with instructional supplies and science equipment in adequate form and quantity, as provided by law.

“§21-1-24.

“The board of trustees of the Alabama Institute for Deaf and Blind, upon the recommendation of the president, may select and adopt for use in the tax-supported public elementary and high school programs at the institute, textbooks and instructional materials, other than prescribed by the State Board of Education, which are suitable for the needs of deaf and blind students. Whenever textbooks and instructional materials are substituted for the state-approved or state-adopted books and materials, such books or materials shall be used by the teachers in the institute public school programs in teaching any course or courses for which a substitution has been made. Provided, however, such board of trustees of the Alabama Institute for Deaf and Blind shall provide free textbooks to all grades which would be provided under the terms of subsection (c) of Section 6 of the act of the 1998 Regular Session which amended this section.

“§21-1-25.

“Under the provisions of Section 21-1-24, substitutions shall not include large print nor braille materials as provided under Section 16-36-24.”

Section 13. Article 1, commencing with Section 16-36-1, of Chapter 36 of Title 16 of the Code of Alabama 1975, relating to textbooks, is repealed.

Section 14. No provision, part, or section of this act shall be construed or considered to be an appropriation of funds from the State Treasury. The administration of this act shall be subject to appropriations made by the Legislature.

Section 15. The provision of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 16. All laws or parts of laws which conflict with this act are repealed.

Section 17. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 16, 1998

Time: 2:57 P.M.

Act No. 98-321

H. 624 – Reps. Clark (J) and Baker

AN ACT

To amend Section 32-9-29 of the Code of Alabama 1975, relating to the Department of Transportation and the issuance of permits for the operation of oversized vehicles, to further provide for the issuance of permits for the operation of certain rubber-tired equipment used solely in the scope and operation of mining refractory grade bauxite.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-9-29 of the Code of Alabama 1975, is amended to read as follows:

“§32-9-29.

“(a) Authorized; application; issuance; seasonal, etc., limitations; refusal, revocation or cancellation.

“(1) The director of the highway department or the official of the highway department designated by the director may, in his discretion, upon application and for good cause being shown therefor, issue a permit in writing authorizing the applicant to operate or move upon the state’s public roads a vehicle or combination of no more than two vehicles and loads whose weight, width, length or height, or combination thereof, exceeds the maximum limit specified by law; provided, that the load transported by such vehicle or vehicles is of such nature that it is a unit which cannot be readily dismantled or separated; provided however, that bulldozers and similar construction equipment shall

not be deemed readily separable for purposes of this chapter; and further provided, that no permit shall be issued to any vehicle whose operation upon the public roads of this state threatens to unduly damage a road or any appurtenances thereto.

“(2) Permits may be issued on application to the department to persons, firms or corporations. The director of the highway department shall promulgate reasonable rules and regulations which are necessary or desirable governing the issuance of such permits; provided, that such rules and regulations shall not conflict with the provisions of this title and other provisions of law.

“(3) The original copy of every such permit shall be carried in the vehicle itself and shall be open to inspection by any police officer or state trooper or authorized agent of the highway department.

“(4) The application for any such permit shall specifically describe the type of permit applied for, as said types of permits are described in subsection (b) of this section, and the application for a single trip permit shall, in addition, describe the points of departure and destination.

“(5) The director of the highway department or the official of the highway department designated by the director is authorized to withhold such permit or, if such permit is issued, to establish seasonal or other time limitations within which the vehicles described may be operated on the public road indicated, or otherwise to limit or prescribe conditions of operation of such vehicle, when necessary to assure against undue damage to the road foundation, surfaces or bridge structures, and require such undertaking or other security as may be deemed necessary to compensate the state for any injury to any roadway or bridge structure.

“(6) For just cause, including, but not limited to, repeated and consistent past violations, the director of the highway department or an official of the highway department designated by the director may refuse to issue, or may cancel, suspend or revoke, the permit of an applicant or permittee.

“(b) Duration and limits of permits; bond or insurance requirements.

“(1)a. ANNUAL. The director of the highway department or the official of the highway department designated by the director may, pursuant to the provisions of this section, issue an annual permit which shall permit the vehicle or combination vehicle and load to be operated on the state highway system of this state for 12 months from the date the permit is issued, even though the vehicle or its load exceeds the maximum limits specified in this article; provided, that an annual permit shall not authorize the operation of a vehicle including all enforcement tolerances:

"1. Whose total gross weight exceeds 150,000 pounds; provided, that gross weights over 100,000 pounds shall require advance routing by the highway department;

"2. Whose single axle weight exceeds 22,000 pounds;

"3. Whose total length exceeds 75 feet; with the exception of mobile homes, whose length limitations, including towing vehicle, shall be 85 feet;

"4. Whose total width exceeds 120 inches or whose load width exceeds 144 inches; with the exception of mobile homes, whose width limitation shall be 168 inches; provided, that mobile homes whose width exceeds 144 inches shall require advance route approval by the highway department; or

"5. Whose height exceeds 14 feet.

"A permit to operate a vehicle which exceeds the statutory limits of height, weight, width or length shall be issued only on condition of payment of an indemnity bond or proof of insurance protection for \$300,000.00, said bond or insurance protection conditioned for payment to the highway department to be held in trust for the benefit of the owners of bridges and appurtenances thereof, traffic signals, signs or other highway structures damaged by a vehicle operating under authority of such overheight permit. The liability under the bond or insurance certificate shall be contingent upon proof of negligence or fault on the part of the permittee, his agents or operators.

"b. Notwithstanding paragraph a., the Director of the Department of Transportation pursuant to this section, may issue an annual permit to operate a vehicle which exceeds the maximum limits otherwise provided in this article for rubber-tired equipment used solely in the scope and operation of mining refractory grade bauxite. The equipment may not exceed the limits of paragraph a, except that the permit may not authorize the operation of a vehicle, including enforcement tolerances, which exceeds 16 feet in width, exceeds 18 feet in height, or exceeds a single axle weight of 27,000 pounds. In addition, the permit may not authorize the operation of the vehicle on any bridge, over or under any overpass, or on an interstate highway. The fee for the annual permit shall be one hundred dollars (\$100).

(2) SINGLE TRIP. The director of the highway department may issue a single trip permit, pursuant to the provisions of this section, to any vehicle.

"(c) Fees. The director of the highway department may promulgate rules and regulations concerning the issuance of permits and charge a fee for the issuance as follows:

"(1) ANNUAL. Charges for the issuance of annual permits shall be as follows:

"a. For modular homes, sectional houses, portable buildings, boats and any vehicle or combination of vehicles, \$100.00; except, that a vehicle or combination of vehicles having trailer or combination of trailers with sidewalls or roof which has transported modular homes, sectional houses and portable buildings may, after depositing any said load, return unloaded to its point of origin, even though the unloaded vehicles exceed the 55 foot limitation provided for in this article, up to and including 12 feet wide and 75 feet long.

"b. For heavy commodities or equipment, overweight, overlength, overheight and overwidth, \$100.00. A tractor and trailer (low boy type) may, after depositing a load referred to in this subparagraph, return to its point of origin, even though the unloaded tractor and trailer (low boy type) may exceed the 55 foot limitation provided for in this article up to and including 12 feet wide and 75 feet long.

"c. For mobile homes up to and including 14 feet wide and 85 feet long, including towing vehicle, \$100.00.

"(2) SINGLE TRIP. Charges for the issuance of single trip permits shall be as follows:

"a. Mobile homes, modular homes, sectional houses, portable buildings and boats:

"1. Up to and including 12 feet wide and 75 feet long, \$10.00.

"2. Boats in excess of 12 feet wide, \$20.00.

"3. Mobile homes, modular homes, sectional houses and portable buildings in excess of 12 feet wide and/or 75 feet long, \$20.00.

"b. Heavy commodities or equipment:

"1. Over on any limitations as to length, height or width, \$10.00.

"2. Over on weight, as follows:

"WEIGHT PERMITTED	PERMIT FEE
"From 80,001 pounds up to 100,000 pounds	\$ 10.00
"From 100, 001 pounds up to 125,000 pounds	30.00
"From 125,001 pounds up to 150,000 pounds	60.00
"From 150,001 pounds and over	100.00

"c. Miscellaneous:

"1. Houses, \$20.00.

"2. Off-the-road equipment, \$10.00.

"3. Other oversized vehicles, loads and equipment not herein specified, \$20.00.

"4. Other overheight loads not herein specified, \$10.00.

"(d) Certain vehicles on interstate highways. Under the provisions of this section, 14 feet-wide vehicles and combination vehicles and load may be issued a permit to travel the interstate highways.

"(e) Violations of federal law, etc. No permit shall be issued under this section if the issuance of the permit would violate United States law or would cause the state of Alabama to lose federal-aid funds. Notwithstanding any provisions of any statute to the contrary, all permit fees collected in accordance with this section shall be paid to the public road and bridge fund in addition to any sums appropriated therefor to the highway department.

"(f) Farm and agricultural commodities and equipment exempt. The term "heavy commodities or equipment," as used in this section, is not intended to include farm and agricultural commodities or equipment, and such farm or agricultural commodities and equipment are exempt from the requirement of obtaining permits for movement on the state highway system of Alabama."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 16, 1998

Time: 2:58 P.M.

Act No. 98-322

H. 616 – Rep. Box

AN ACT

To repeal Articles 1 and 2 (commencing with Section 22-53-1) of Chapter 53 of Title 22, Code of Alabama 1975, relating to support of mentally ill persons committed to mental institutions by order of court.

Be It Enacted by the Legislature of Alabama:

Section 1. Articles 1 and 2 (commencing with Section 22-53-1) of Chapter 53 of Title 22 of the Code of Alabama 1975, is repealed.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 16, 1998

Time: 3:00 P.M.

Act No. 98-323 H.J.R. 326 – Reps. Kennedy, Box, Mitchell, Turner,
Buskey, Clark (W), Crigler, Gaston,
Pringle and Dean

HOUSE JOINT RESOLUTION

DESIGNATING THE MOBILE REGIONAL LABORATORY
THE NELSON E. GRUBBS-LEROY RIDDICK LABORATORY.

WHEREAS, the late Nelson E. Grubbs and Dr. Leroy Riddick have contributed immeasurably to the Alabama Criminal Justice and Death Investigation Systems in their positions with the Alabama Department of Forensic Sciences; and

WHEREAS, their professional accomplishments during their years of service have greatly benefited the efforts of law enforcement and the people of Alabama; and

WHEREAS, they have served the state with inspiration, diligence, and ability; and unselfishly given of their time and talents throughout the years for the benefit and progress of the state; and

WHEREAS, their inspired leadership, integrity, devotion, and dedication to improving the efforts of criminal justice, and outstanding professional ethics have touched the lives of thousands; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That by copy of this resolution, we hereby respectfully request the Alabama Department of Forensic Sciences to rename and designate its Mobile Regional Laboratory the Nelson E. Grubbs-Leroy Riddick Laboratory.

RESOLVED FURTHER, That we hereby recognize and commend the accomplishments of the late Nelson E. Grubbs and Dr. Leroy Riddick, and acknowledge them on a job well done during their years of service to the state.

RESOLVED FURTHER, That a copy of this resolution be provided to the immediate family of Nelson Grubbs, and that a copy be provided to Dr. Leroy Riddick.

Approved April 16, 1998

Time: 3:01 P.M.

Act No. 98-324 H.J.R. 244 – Reps. Hamilton and Starkey

HOUSE JOINT RESOLUTION

COMMENDING THE LAUDERDALE COUNTY HIGH
SCHOOL LADY TIGERS ON THEIR 3A GIRLS BASKETBALL
STATE CHAMPIONSHIP.

WHEREAS, the Lauderdale County High School Lady Tigers Basketball Team is deserving of special recognition and heartiest congratulations for winning the 3A Girls Basketball State Championship; and

WHEREAS, the spectacular 1997 Championship victory, culminating a remarkable season with a 34-1 record, again showcased the exceptional skill and talent of Coaches Larry Sinyard and Brant Llewellyn, and support from managers, David Kelley and Brett Sinyard, trainer, Pee Wee Melton, and scorekeeper, Kathy Sinyard; and

WHEREAS, this talented group of young ladies includes: Andrea Phillips, Alana Sinyard, Jamie McConnel, Jessica Patrick, Bridgett Tucker, Brooke Maner, Dianna Felker, Leslie Clemmons, Tabbatha Freeman, Cori Williams, Jessica Word, Valerie Masonia, Catrina Fuqua, Rebecca Hudson, Kelli Belue, Heather Davis, Brandi Kelley, and Jessica Eady; and

WHEREAS, this excellent team also won the Decatur Pepsi Classic, Northwest Alabama Christmas Tournament, as well as County, Area 16, and Region Tournaments while players and fans celebrated with chants of victory; and

WHEREAS, the supporters of Lauderdale County High School athletics are justly proud of the accomplishments of the Lauderdale County High School Lady Tigers and wish to express their appreciation and continued support; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the team members are commended for the exemplary manner in which they have represented their school and community, and it is further directed that a copy of this resolution be presented to Coach Sinyard for appropriate school display.

Approved April 16, 1998

Time: 3:02 P.M.

HOUSE JOINT RESOLUTION

COMMENDING THE SUMTER COUNTY HIGH SCHOOL BOYS' BASKETBALL TEAM AS THE 1998 STATE CLASS 4-A CHAMPIONS.

WHEREAS, the Alabama Legislature, in highest commendation, congratulates the Sumter County High School Wildcats on their 1998 State 4-A Basketball Championship; and

WHEREAS, the Sumter County High School Wildcats, ably directed by Head Coach Johnny Patrick, Assistant Coaches Darren Blakley and Chris Spencer, and Manager Herman Johnson, posted an impressive 25-4, 1997-98 season record to claim the coveted 4-A Title

WHEREAS, greatly contributing to these outstanding accomplishments were team members Mario Austin, Broderick Coby, Willie Davis, Kelvin Graham, Clyde Harmon, Michael Harris, Maurice Jackson, Reynaldo James, Donnell Law, Jeremy Law, Charles Landrum, Jazmin Mitchell, Willie Ray, and Ellis Watkins; and

WHEREAS, these fine young athletes indeed bring great honor to themselves, their school, and community and, along with their talented coach Johnny Patrick, are indeed deserving of highest praise for their dedicated efforts and accomplishments; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Coach Johnny Patrick and the members of the Sumter County High School Boys' Basketball Team as the 1998 State 4-A Champions, and direct that a copy of this resolution be provided for appropriate presentation and display at Sumter County High School.

Approved April 16, 1998

Time: 3:03 P.M.

Act No. 98-326

H.J.R. 293 – Rep. Black (L)

HOUSE JOINT RESOLUTION

COMMENDING DRUCILLA RUSS JACKSON ON HER PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Drucilla Russ Jackson is retiring from the position of Media Specialist at North Sumter Junior High School on February 27, 1998, thus ending her career with the Sumter County School System, and it is appropriate to highlight her many achievements and to extend special public recognition for her professional leadership; and

WHEREAS, a graduate of Tivoli High School and Okaloosa-Walton Junior College, she received a B.S. degree from Livingston University and subsequently began her teaching career with the Sumter County School System; and

WHEREAS, in addition to the responsibilities of her career, she serves her community in such organizations as the Sumter County Education Association, Alabama Education Association, National Education Association of Classroom Teachers, and local and state P.T.A. chapters; and

WHEREAS, the recipient of the 1995 Who's Who Teachers of America Award, she also is a faithful member of Zion Valley Baptist Church, loving wife to Claude Jackson, and devoted mother of Mikisha; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Drucilla Russ Jackson is commended on her exemplary record of accomplishments in the field of education for 27 1/2 years, and, by copy of this resolution, extended sincere best wishes for a rewarding and gratifying retirement.

Approved April 16, 1998

Time: 3:04 P.M.

Act No. 98-327

H.J.R. 453 – Reps. Hall (A), Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican,

Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Pringle, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis and Wren

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF SANFORD EVERETT OF HUNTSVILLE, ALABAMA.

WHEREAS, recorded with a source of deep sorrow and loss is the lamentable death of Sanford Everett of Huntsville, Alabama, at the age of 83 years; and

WHEREAS, a native of Jackson County and prominent member of the Maysville Community, Mr. Everett, or Sant as he was affectionately known, was an outstanding businessman and successful farmer, whose philosophy was that with financial success came a responsibility to give something back to the community; and

WHEREAS, his quiet leadership and assistance to his friends and neighbors demonstrated his commitment to the principles of religious teachings, earned as a lifetime member of Pleas-Mount Baptist Church; and

WHEREAS, he was widely known and admired through his involvement in leadership and service with numerous agricultural boards and committees, serving on the boards of both Farm Bureau and Alfa Insurance, and for his frequent contributions to many worthy organizations; and

WHEREAS, an ardent supporter of the Central Volunteer Fire Department (VFD) for many years, Mr. Everett donated a tract of land to the Maysville Community and VFD to be used as a tornado shelter; and

WHEREAS, Mr. Everett was indeed a kind, loving, and compassionate person whose lamentable death has left an unfathomable void in the hearts of all those whose lives he touched through genuine care and concern; and

WHEREAS, Sanford Everett will be sorely missed by his loving wife, Minnie H. Everett; daughter, JoAnn Dean and Jimmie Sue Hancock; son, Billy Everett; sister, Mary Johnson; brother, Eugene Everett; eight grandchildren; four step grandchildren; and one great grandchild; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

void in the hearts of all those whose lives he touched through genuine care and concern; and

WHEREAS, Sanford Everett will be sorely missed by his loving wife, Minnie H. Everett; daughter, JoAnn Dean and Jimmie Sue Hancock; son, Billy Everett; sister, Mary Johnson; brother, Eugene Everett; eight grandchildren; four step grandchildren; and one great grandchild; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express our deepest regret in the death of Mr. Sanford Everett, and extend our most heartfelt sympathy to his wife, Minnie Everett, for whom four copies of this resolution shall be provided with sincere condolence.

Approved April 16, 1998

Time: 3:05 P.M.

Act No. 98-328

H.J.R. 323 – Rep. Newton (C)

HOUSE JOINT RESOLUTION

COMMENDING MR. ERIC O. CATES, JR., ON HIS 80TH BIRTHDAY.

WHEREAS, it is indeed a pleasure to recognize Mr. Eric O. Cates, Jr., on the celebration of his 80th birthday on May 28, 1998; and

WHEREAS, our friend and former colleague who served with the House of Representatives for eight years, Mr. Cates also is a successful farmer in Butler County and a devoted member of Ft. Deposit Methodist Church; and

WHEREAS, Mr. Cates, who served his country with pride and patriotism in the United States Army and National Guard for 36 years, thereby obtaining the rank of Colonel, served his profession well as executive director of the Agriculture Stabilization Conservation Service for 15 years, Alabama Bankers Association for five years, and Peoples Bank of Greenville for 30 years; and

WHEREAS, a truly exemplary citizen who remains vitally interested in the well-being of his community, he is an ardent supporter of the Kiwanis Club of Greenville and is a lifetime director of the Alabama Cattleman's Association; he also received the prestigious selection of Greenville's 1976 Jaycees Man of the Year; and

WHEREAS, Mr. Cates has been married to his loving wife, the former Louise Braswell for 53 years; is an affectionate father to four children, Linda Roquemore, Jean Blackmon, Ann Boutwell, and Eric Cates, III, and is the proud and doting grandfather to eleven grandchildren; and

WHEREAS, Eric O. Cates continues to amaze everyone with his alertness, positive attitude, and friendly smile, and is indeed a man of exceptional stature, whose lifetime has been recognized and admired by his family and friends for extraordinary leadership and significant achievement; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend Mr. Cates on his 80th birthday, and do further direct that he receive a copy of this resolution as an expression of our sincere personal regard.

Approved April 16, 1998

Time: 3:06 P.M.

Act No. 98-329

H.J.R. 262 – Rep. Lindsey

HOUSE JOINT RESOLUTION

COMMENDING THE CHEROKEE COUNTY LADY WARRIORS ON WINNING THE 1998 CLASS 4A STATE GIRLS BASKETBALL CHAMPIONSHIP.

WHEREAS, it is with great pride and pleasure that we recognize the Cherokee County High School Lady Warriors basketball team on winning the 1998 Class 4A girls state basketball championship, with an exciting fourth quarter rally to defeat the Lawrence County High School Lady Red Devils 44-36; and

WHEREAS, the 1998 championship is the third in the past six years for the Lady Warriors, who also garnered the 4A title in 1992 and 1993; and

WHEREAS, under the expert and steady guidance of Coach Jason Shields, the Lady Warriors finished the 1997-1998 season with an amazing 31-4 record; and

WHEREAS, thanks to the dedicated play of every member of this special team, the superb coaching, and the truly fantastic support of the loyal fans, the 1997-1998 season will be remembered as one of the finest in Lady Warriors' history; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby heartily commend the 1998 Class 4A championship Lady Warriors team, and direct that a copy of this resolution be provided to Coach Shields for appropriate presentation and display.

Approved April 16, 1998

Time: 3:07 P.M.

Act No. 98-330

H.J.R. 249 – Rep. Holmes

HOUSE JOINT RESOLUTION

COMMENDING JESSE L. CLEVELAND FOR OUTSTANDING CONTRIBUTIONS AND ACHIEVEMENTS.

WHEREAS, It is with great pride and pleasure that we note the many personal, civic, and professional contributions and accomplishments of Jesse L. Cleveland, Mayor of Sylacauga, Alabama; and

WHEREAS, Jesse Cleveland received a B.S. degree from Alabama State University in 1964, a Natural Science Foundation Certificate from the University of Florida in 1968, an M.A. Ed. degree from the University of Alabama in Birmingham in 1973, and an A.A. Ed. certification from U.A.B. in 1981; and

WHEREAS, Jesse Cleveland's career in education began in 1961 as a lab assistant while a student at Alabama State, and thereafter he served successively as teacher and coach in Hale County; teacher in Sylacauga; Assistant Principal at Sylacauga High School; Principal at East Highland Middle School; Curriculum Development Specialist, Division of Education at Talladega College; and current Chairman of Alabama A&M University Board of Trustees; and

WHEREAS, in further service to his profession, Jesse Cleveland has contributed as Alabama Committee District Coordinator of the Southern Association of Colleges and Schools since 1977, and was President of the Alabama Middle School Association; he has also served as a member or consultant on numerous educational task forces, committees, and organizations such as the Alabama LEAD Academy and the Governor's 1991 Task Force on Educational Reform; and

WHEREAS, Jesse Cleveland has been a faithful and active member of the Sylacauga St. Thomas United Methodist Church since 1973, where he has served as Sunday School teacher, co-chair of the finance committee, and member of the parrish relations committee; he has been honored by St. Thomas as its 1983 Man of the Year, and as a 1988 Recognition Award recipient; and he has further served the United Methodist Church since 1996 as a member on its Southern District Board; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most heartily commend Jesse L. Cleveland for his many outstanding contributions and achievements, and by copy of this resolution, extend to him our sincere esteem and appreciation.

Approved April 16, 1998

Time: 3:08 P.M.

Act No. 98-331

H.J.R. 437 – Rep. Turnham

HOUSE JOINT RESOLUTION

COMMENDING LALA EDGE ALLEN ON THE OCCASION OF HER 90TH BIRTHDAY.

WHEREAS, it is with great pride that we recognize the 90th birthday of Lala Edge Allen, of Penton, Alabama, on April 18, 1998, and the gala celebration in her honor at the Pleasant Grove Church in Union Hill; and

WHEREAS, Lala Allen maintains an involved and active lifestyle, helping others and contributing to the general welfare of her community; and

WHEREAS, Mrs. Allen's community involvement was recognized in 1997, when she was selected by the Alabama Senior Citizens Hall of Fame as an honorary member; and

WHEREAS, Mrs. Allen's accomplishments for which she was awarded honorary Hall of Fame membership include volunteer work, spending time with nursing home patients, supporting local fire and rescue squads, working with the Chambers County Health Council, helping establish the Union Hills Community Club in 1971, and working with retired teachers; and

WHEREAS, Mrs. Allen was a dedicated teacher for 45 years, and remains active in the Chambers County Teachers' Association; she was married for many years to the late J. Emory Allen, a beloved member of the Penton community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby commend Mrs. Lala Edge Allen on the occasion of her 90th birthday, and by copy of this resolution, extend to her our highest appreciation and esteem.

Approved April 16, 1998

Time: 3:09 P.M.

Act No. 98-332

H.J.R. 312 – Rep. Baker

HOUSE JOINT RESOLUTION

COMMENDING REVEREND EDDIE W. THOMAS FOR EXEMPLARY SERVICE TO MARY MAGDALENE BAPTIST CHURCH AND THE ABBEVILLE COMMUNITY.

WHEREAS, Reverend Eddie W. Thomas, a native of Dothan, Alabama, and the youngest of four sons born to the late Reverend Albert T. Thomas and Mrs. Ozie L. Thomas, graduated Magna Cum Laude from Morehouse College in Atlanta, Georgia, and received a Master of Science degree from Troy State University; he was ordained into the ministry in March of 1972, and has served as an instructor in the Dothan City School System since 1979; and

WHEREAS, over the past 21 years, Reverend Eddie W. Thomas has faithfully served as pastor of Mary Magdalene Baptist Church, Abbeville, Alabama and, under his capable leadership and guidance, Mary Magdalene Baptist has experienced phenomenal growth and success in all aspects of its ministry and witness; and

WHEREAS, as a result of his dedicated commitment and untiring efforts, many new programs and improvements have been instituted and established including a new sanctuary, a tutorial program to aid students, a bus ministry, a male chorus, workshops to address community problems and needs, the sponsorship of an annual Area Revival for Children and Youth in conjunction with other community churches, a Laywomen's Auxiliary to assist in church outreach ministries, an Area Laymen's Prayer Breakfast, and others; also, in love and concern for all the people of the community, he has reached beyond, thereby encouraging a spirit of brotherhood within the community; and

WHEREAS, in an extension of service, Reverend Thomas has served in such capacities as moderator for the Abbeville District Baptist Association; director of Christian Education, Southeast District Association; lecturer, Inter-denominational Ministerial Alliance; and member, School Advisory Council, Girard Middle School; he also is a member of a number of honor societies and civic and fraternal organizations including Phi Beta Kappa, Lookwell Chapter O. E. S., Polar Star Masonic Lodge, and Phi Alpha Theta Historical Honor Society; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of his devoted service as pastor of Mary Magdalene Baptist Church, and to the Abbeville community, we hereby most highly commend

Reverend Eddie W. Thomas, for whom a copy of this resolution shall be provided.

Approved April 16, 1998

Time: 3:10 P.M.

Act No. 98-333

H.J.R. 313 – Rep. Rogers (J)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JAMES LEE PICKETT, SR.

WHEREAS, herein recorded with deep sorrow and regret is the death of Brother James Lee Pickett, Sr., a native of Whatley, Alabama, on March 3, 1998, at the age of only 53 years; and

WHEREAS, Brother Pickett was the eldest of eight children born to Ms. Edna Mae and the late Frank J. Pickett; he professed his faith at an early age at Zion Branch Baptist Church, Gosport, Alabama, and, sometime later, joined West End Hill Baptist Church, where he was a devoted and obedient servant of God; and

WHEREAS, a graduate of Ullman High School, Brother Pickett served his country with honor and patriotism in the United States Army during the Vietnam War and was a successful and respected truck driver with Truckrail Transport for many years; and

WHEREAS, during his leisure hours he enjoyed photography, and was a loving husband to his wife, Delores; fine father to daughters, Demetria P. Hill, Rosalind Mack and Erica Pickett; daughters and sons-in-law, Michelle P. and Ira Pruitt, Monica and Furqan Muhummud, and Carol and Charles Burrell; son, James Pickett, Jr.; mother, Mrs. Edna Pickett; sister and brother-in-law, Veleria and LaGuria Miles; sister, Wanda P. Walker; brother, Franklin; brothers and sisters-in-law, Howard and Phyllis, Larry and Velma, Michael and Mary, and DeWayne and Vickie; nine grandchildren; and a host of other relatives and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That expressions of deepest sympathy and regret are extended to the family of Brother James Lee Pickett, Sr., and, by copy of this resolution to his wife, Delores, provided our sincere condolence.

Approved April 16, 1998

Time: 3:11 P.M.

Act No. 98-334

H.J.R. 391 – Rep. Morrow

HOUSE JOINT RESOLUTION

COMMENDING LORA CONRAD FOR OUTSTANDING COMMUNITY SERVICE.

WHEREAS, Lora Conrad, a resident of Franklin County and an outstanding chair and board member of the Franklin County Water Service Authority, from May 1994 until 1998, has brought great distinction to herself through her conscientious and dedicated service on the board; and

WHEREAS, Mrs. Conrad, by her business acumen and foresighted efforts, has made immeasurable contributions and was personally responsible for expanding the water service in the City of Russellville for minority families, in Dismal Canyons in the Liberty Hill community, in Dempsey and Oak Grove communities for approximately 150 families, and in the Old Nauvoo community; she has obtained grants for expanded service to over 400 more county residents, and has provided financial assistance for water storage tanks, fire hydrants, truck and other equipment; and

WHEREAS, under the leadership of Mrs. Conrad, the board has purchased property needed for its operations and has coordinated the project to provide safe water to East Franklin residents with the Corps of Engineers and NACOLG representatives; and

WHEREAS, because she was instrumental in the overall development and the expansion of service and safe drinking water provided by the Franklin County Water Service Authority for the county residents, the authority has moved closer to the realization of a water treatment plant for the county and all of our citizens are better off because of Lora Conrad; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Lora Conrad is highly commended on her outstanding community service to the citizens of Franklin County and her many achievements as chair and board member of the Franklin County Water Service Authority and that a copy of this resolution be provided to Mrs. Conrad as a token of our esteem and with best wishes for continued successes.

Approved April 16, 1998

Time: 3:12 P.M.

Act No. 98-335

H.J.R. 321 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING THE 1997-98 PRATTVILLE HIGH SCHOOL BOYS LIONS ON THEIR OUTSTANDING BASKETBALL SEASON.

WHEREAS, the Alabama Legislature most heartily congratulates the 1997-98 Prattville High School Boys Basketball Team on their outstanding season, thus bringing immense happiness and pride to the Prattville Community and, in recognition thereof, the team members, the members of the coaching staff, and all of those individuals associated with the team are deserving of special public commendation; and

WHEREAS, in their determination to develop the fullest potential of the players, Head Coach Barry Mohun; Assistant Coaches, Jeff Hines and Glenn Register; Managers, Shawn Skinner, Derek "Country" Brecheisen, and Terrance DeJarnette have devoted countless hours to training team members and emphasizing discipline and good sportsmanship, along with Videographer, Matt Abernathy, who has provided invaluable game coverage; and

WHEREAS, the Prattville High School Boys Basketball Team posted phenomenal overall season records including a 27-8 record, claimed the most wins in Prattville High School history, and was the winner of numerous tournaments including the Prattville Thanksgiving Tournament, as well the Autauga County, 6A Area 6, and Southeast Regions Championships, and also was listed in the State of Alabama final four; and

WHEREAS, the Lions enjoyed further success by defeating Hoover in the Big Orange Classic, the 4A Lanier team three times, Ouachita, Louisiana, Charles Henderson, and Carver in the Thanksgiving Tournament, Northview in the sub-region game, and Hoover and Vestavia Hills in the Southeast Regional Tournament; and

WHEREAS, showcasing the exceptional skills of team members with 104 points against Booker T. Washington, a season high, members of this exceptional team are: Nick Abraham, Stephen Barnett, Kermane Bates, Kevin Bozeman, Tony Brown, Jason Fisher, Kelton Houser, Lo Lewis, Gary Love, Rod Montgomery, Aaron Salamone, Jared Tatum, Lendell Townsend, and Brandon Vaughn; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Representative

H. Mac Gipson and Senator Wendell Mitchell hereby join with the Alabama Legislature in commending and congratulating the 1997-98 Prattville High School Boys Basketball Team and, by copy of this resolution to Coach Mohun for appropriate school display, extend sincere best wishes for continued success.

Approved April 16, 1998

Time: 3:13 P.M.

Act No. 98-336

H.J.R. 392 – Ford (J)

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JOHN DAVID FLOWERS OF TUSKEGEE, ALABAMA.

WHEREAS, it is with deep and abiding sorrow that the Legislature of Alabama records the death of John David Flowers of Tuskegee, Alabama, on March 28, 1998; and

WHEREAS, a native of Pike County, Alabama, and one of five children born to the late Horrie and Jimmie Flowers, John Flowers attended public school in Brundidge, Alabama, and served in the United States Navy during World War II; and

WHEREAS, a longtime and highly regarded member of the Tuskegee community, Mr. Flowers was employed for 29 years as a barber and Psychiatric Nursing Assistant at the VA Medical Center, and received many certificates and awards for his achievements; he was also an accomplished carpenter and built a number of homes in the community; and

WHEREAS, a faithful Christian, Mr. Flowers accepted Christ as his Savior at an early age and united with County Line Baptist Church in Brundidge, Alabama; in the years to follow, he would become an active member of Butler Chapel AME Zion, where he served as a Pastor's Stewart, and later Mount Olive Missionary Baptist Church, where he remained a loyal and dedicated member until his lamentable death; he was also an active member of Booker T. Washington Elks Lodge #762; a lifelong member of the DAV; and an active member of the Rockerfeller Hill Community Organization; and

WHEREAS, Mr. Flowers was a man of strong conviction, character, and integrity, who, throughout his lifetime exhibited, both in his personal life and career, a sincere interest in the happiness and well-being of others, as demonstrated through his devotion to

the needs of his family, many friends, and neighbors, and through leadership and support of his church; and

WHEREAS, in the death of John Flowers, the community, his loving family, and his many friends have indeed suffered an inconsolable loss, which leaves them sorely bereft in grief, but with cherished memories and hopes of reunion to sustain them; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That grievously mourned is the death of John D. Flowers of Tuskegee, Alabama, and, by copy of this resolution, deepest sympathy is extended to his beloved wife, Gertrude Flowers; sons, John M. (Glenda) Flowers, Horye (Theodora) Flowers, and Wilfred (Everlena) Flowers; daughters, Delphia Williams, and LaDedra Flowers; sisters, Lunora Fenn, Darnella (Monroe) Hardwick; 15 grandchildren and 11 great-grandchildren; and to other close family members and friends, whose sorrow we sincerely share.

Approved April 16, 1998

Time: 3:14 P.M.

Act No. 98-337

H. 837 – Reps. Fuller, Knight (J), Houston, McAdory, Perdue, Hilliard, Spratt, Kennedy, Rogers (J), Buskey, Clark (W), Newton (D) and McClammy

AN ACT

To propose an amendment to the Constitution of Alabama of 1901 authorizing the issuance of general obligation bonds of the State of Alabama in aggregate principal amount not exceeding \$17,500,000 for the purpose of providing, equipping and improving permanent facilities in the State for use as forensic sciences laboratories and education facilities for the provision of instruction and research in the field of forensic sciences.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and upon proclamation of the Governor.

PROPOSED AMENDMENT

“The State of Alabama is authorized to become indebted for the purpose of providing, equipping and improving facilities in the

State for use as forensic laboratories and education facilities for the provision of instruction and research in the field of forensic sciences and in evidence of the indebtedness so incurred to sell and issue bonds, in addition to all other bonds of the State, not exceeding \$17,500,000 in aggregate principal amount. Said bonds shall be direct general obligations of the State and the full faith and credit and taxing power of the State are hereby pledged to the prompt and faithful payment of the principal thereof and the interest thereon. The proceeds from the sale of said bonds are hereby appropriated and shall be used exclusively for the purpose of paying the expenses incurred in the sale and issuance thereof and for payment of the costs of the construction, alteration, improvement, remodeling, renovation, modernization, enlargement and equipment of buildings and related facilities, including parking areas and ramps, roadways, sewers, curbs, and gutters, including the purchase of sites therefor, for use as forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences. None of the proceeds derived from the sale of the bonds may be used to pay rents for the use of real or personal property or to make payments under any lease with option to purchase or similar contractual arrangement. Said bonds shall be issued by the State pursuant to appropriate resolutions adopted by the board of directors of Alabama Forensic Sciences Bond Authority, and the proceeds thereof shall be allocated by said authority for payment of the aforesaid costs in such amounts and manner as shall be authorized by act of the legislature.

“The State of Alabama is further authorized to become indebted and in evidence thereof to sell and issue one or more series of bonds to refund all or any of the bonds hereinabove authorized by this amendment in such principal amount or amounts (which may exceed the principal amount of the bonds being refunded) and in such manner as may be provided by law duly enacted by the legislature.

“The aforesaid Authority is hereby vested with the power and authority to provide for the sale and terms of the bonds hereby authorized and the issuance thereof, subject to the approval of the Governor. The bonds may be sold, executed and delivered at any time and from time to time, may be in such forms, denominations, series and numbers, may be of such tenor and maturities, may bear such date or dates, may be payable in such installments and at such place or places, may bear interest at such rate or rates payable and evidenced in such manner, and may contain provisions for redemption at the option of the State to be exercised by said Authority at such date or dates prior to their maturity and upon payment of such redemption price or prices, all as shall be

provided by the said Authority in the resolution or resolutions whereunder the bonds hereby authorized are issued. The principal of each series of bonds shall mature on such date in such amounts as shall be specified in the resolution or resolutions of the board of directors of the said Authority under which they are issued, the last of which installments shall mature not later than twenty-one years after the date of the bonds of the same series. All of the bonds (including refunding bonds) shall be sold only at public sale or sales, either on sealed bids or at public auction, after such advertisement as may be prescribed by the said Authority, to the bidder whose bid reflects the lowest true interest cost to the State computed to the respective maturities of the bonds sold; provided, that if no bid deemed acceptable by the said Authority is received all bids may be rejected.

“The bonds shall be signed in the name of the State by the Governor and countersigned by the chairman of the said Authority and the Great Seal of the State of Alabama or a facsimile thereof shall be impressed, printed or otherwise reproduced thereon and shall be attested by the signature of the Secretary of State; provided that facsimile signatures of any or all of said officers may be reproduced on such bonds in lieu of their manually signing the same.

“All bonds issued under the provisions of this amendment, together with the interest income thereon, shall forever be exempt from all taxation in the State, except inheritance, estate and gift taxes.

“The proceeds from the sale of those bonds hereby authorized (other than refunding bonds), after the payment of all expenses of the sale thereof, shall be set apart in a special fund in the state Treasury to be designated “The Forensic Sciences Facilities Improvement Fund,” and such proceeds shall be temporarily invested until needed and disbursed, together with income derived from the investment and reinvestment thereof, on order of the afore-said Authority solely for the purposes, hereinabove described, for which said bonds are authorized to be issued. Proceeds and said income so disbursed may be combined with monies derived from other sources or otherwise provided by State institutions in accomplishing said purposes in such manner as said Authority shall direct, but the provision or existence of matching funds from the federal government or other entities or persons shall not be a prerequisite to the issuance of any bonds hereunder or to the disbursement of any proceeds thereof or any income earned on such proceeds.

“The Alabama Forensic Sciences Bond Authority shall, to the extent possible and practical, utilize businesses and companies in all aspects of the bond and construction portions of this amendment that reflect the racial and ethnic diversity of the state.

"No further authorizations from the legislature shall be a prerequisite to the validity of any bonds issued hereunder. However, the legislature shall enact appropriate legislation implementing the provisions hereof, including provisions for the issuance of refunding bonds as hereinabove authorized."

Section 2.

An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, as amended, authorizing the issuance, sale, and refunding of general obligation bonds of the State of Alabama of up to \$17,500,000 for the purposes of providing, equipping, and improving facilities in the State for use as educational, research and promotional facilities in the field of forensic sciences.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House April 8, 1998 as amended

Passed the Senate April 16, 1998

Act No. 98-338

H. 312 – Rep. Turnham

AN ACT

To amend Sections 11-98-6, 11-98-7, and add Sections 11-98-8, 11-98-9, 11-98-11, and 11-98-12, Code of Alabama 1975, to provide for a wireless enhanced emergency 911 system; to provide for assessments; to establish a cost recovery fund to reimburse emergency communication districts and commercial mobile radio service providers; to create a Commercial Mobile Radio Service Emergency Telephone Services Board; to authorize the board to establish and maintain a fund administered by the board; and to provide restrictions on E-911 use and methods of response to emergency calls.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 11-98-6 and 11-98-7, Code of Alabama 1975, are amended to read as follows:

“§11-98-6.

“As used in this section and Sections 11-98-7, 11-98-8, and 11-98-9, the following terms shall have the following meanings:

“(1) **BOARD or CMRS BOARD.** The Commercial Mobile Radio Service Emergency Telephone Services Board.

“(2) **AUTOMATIC NUMBER IDENTIFICATION or ANI.** An enhanced 911 service capability that enables the automatic display of the 10-digit wireless telephone number used to place a 911 call and includes pseudo-automatic number identification or pseudo-ANI, which means an enhanced 911 service capability that enables the automatic display of the number of the cell site and an identification of the CMRS provider.

“(3) **COMMERCIAL MOBILE RADIO SERVICE or CMRS.** Commercial mobile radio service under Sections 3(27) and 332(d) of the Federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq., and the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, Aug. 10, 1993, 107 Stat. 312. The term includes the term wireless and service provided by any wireless real time two-way voice communication device, including radio-telephone communications used in cellular telephone service, personal communication service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communication service, or a network radio access line. The term does not include service whose customers do not have access to 911 or to an enhanced 911-like service, to a communications channel suitable only for data transmission, to a wireless roaming service or other non-local radio access line service, or to a private telecommunications system.

“(4) **COMMERCIAL MOBILE RADIO SERVICE PROVIDER or CMRS PROVIDER.** A person or entity who provides commercial mobile radio service or CMRS service.

“(5) **CMRS CONNECTION.** Each number assigned to a CMRS customer.

“(6) **CMRS FUND.** The Commercial Mobile Radio Service Fund required to be established and maintained pursuant to Section 11-98-7(b) (2).

“(7) **CMRS SERVICE CHARGE.** The CMRS emergency telephone service charge levied and maintained pursuant to Section 11-98-7(b)(1)-(2) and collected pursuant to Section 11-98-8.

“(8) **DISTRIBUTION FORMULA.** The percentage of the total state population residing in an ECD, compared to the total state

population residing in all ECDs statewide, based upon the latest Alabama Department of Economic and Community Affairs census.

“(9) ECD. An emergency communications district created pursuant to Chapter 98 of Title 11.

“(10) ENHANCED 911, E-911, ENHANCED E-911 SYSTEM, or E-911 SYSTEM. An emergency telephone system that provides the caller with emergency 911 system service, that directs enhanced 911 calls to appropriate public safety answering points by selective routing based on the geographical location from which the call originated, and that provides the capability for automatic number identification and the features that the Federal Communications Commission (FCC) may require in the future.

“(11) EXCHANGE ACCESS FACILITY. An exchange access facility as defined by Section 11-98-1(4).

“(12) FCC ORDER. The order of the Federal Communications Commission, FCC Docket No. 94-102, adopted on June 12, 1996, and released on July 26, 1996.

“(13) PUBLIC SAFETY AGENCY. A public safety agency as defined by Section 11-98-1(5)

“(14) SERVICE SUPPLIER. A service supplier as defined by Section 11-98-1(7).

“(15) TECHNICAL PROPRIETARY INFORMATION. Technology descriptions, technical information, or trade secrets, including the term trade secrets as defined by the Alabama Trade Secrets Act of 1987, Section 18-27-1 et seq., and the actual or developmental costs thereof which are developed, produced, or received internally by a CMRS provider or by a CMRS provider’s employees, directors, officers, or agents.

§11-98-7.

“(a) There is created a Commercial Mobile Radio Service (CMRS) Board, consisting of seven members. The first five members of the board, each of whom shall serve for a term of four years, shall be appointed by the Governor, subject to confirmation by the Senate, as follows:

“(1) Two members recommended by the ECDs.

“(2) Two members recommended by CMRS providers licensed to do business in Alabama.

“(3) One member recommended by the State Auditor.

“The next two members of the board, each of whom shall serve for a term of four years, shall be appointed as follows:

“(1) One member of the House of Representatives appointed by the Speaker of the House.

“(2) One member of the Senate appointed by the Lieutenant Governor.

“(3) The term of each member shall be four years, except that of the members first appointed, one representing ECDs shall serve for three years and one representing CMRS providers shall serve for three years, one representing ECDs shall serve two years and one representing CMRS providers shall serve two years. The Governor shall designate the term which each of the members first appointed shall serve when he or she makes appointments. The two legislative members shall serve for the length of their elective service but no more than four years. In the event of a vacancy, a vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

“(b) The board shall have the following powers and duties:

“(1) To levy a CMRS emergency telephone service charge on each CMRS connection that has a principal wireless service address (or billing address, if the principal wireless service address is not known) within the state. The rate of such CMRS service charge shall be seventy cents (\$.70) per month per CMRS connection beginning on the effective date of this section, which amount shall not be increased except by the Legislature. The CMRS service charge shall have uniform application and shall be imposed throughout the state. The board is authorized to receive all revenues derived from the CMRS service charge levied on CMRS connections in the state and collected pursuant to Section 11-98-8.

“(2) To establish and maintain the CMRS Fund as an insured, interest-bearing account into which the board shall deposit all revenues derived from the CMRS service charge levied on CMRS connections and collected pursuant to Section 11-98-8. The revenues deposited into the CMRS Fund shall not be moneys or property of the state and shall not be subject to appropriation by the Legislature.

“(3) To make disbursements from the CMRS Fund in the following amounts and in the following manner:

“a. Out of the funds collected by the board and after deduction of administrative expenses, 56 percent shall be distributed to ECDs in accordance with the distribution formula and may only be used for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning, and for incremental expenses directly related to the FCC Order or the handling of wireless emergency calls.

"b. Forty-four percent shall be deposited into a separate account for each ECD in accordance with the distribution formula, and shall be used solely for the purpose of payment of the actual costs incurred by CMRS providers in complying with the wireless E-911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required in order to provide the service as well as the incremental costs of operating the service. A separate account shall be established for each participating ECD. Payments shall be made to a CMRS provider from that ECD's separate account. Sworn invoices must be presented to the board in connection with any request for payment and approved by a majority vote of the board prior to any disbursement and approval shall not be withheld or delayed unreasonably. In no event shall any invoice be approved for the payment of costs that are not related to compliance with the wireless E-911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

"c. In the event that there are wireless emergency telephone services which cannot be efficiently performed at the ECD level or there are expenses which cannot be properly allocated at the ECD level, any ECD or CMRS provider may submit invoices directly to the board and the board shall determine the smallest practical unit basis for joint implementation of services and shall assess each ECD account for its pro-rata share of expenditures related to the services.

"(4) To obtain, pursuant to subsection (5), from an independent, third-party auditor retained by the board a copy of the annual reports to the Alabama Department of Examiners of Public Accounts no later than 60 days after the close of each fiscal year, which shall provide an accounting for all CMRS service charges deposited into the CMRS Fund during the preceding fiscal year and all disbursements to ECDs during the preceding fiscal year. The Department of Examiners of Public Accounts shall conduct an annual audit of the expenditures of the board from all CMRS service charges from the CMRS Fund.

"(5) To retain, upon majority vote of the board, an independent, third-party auditor for the purposes of receiving, maintaining, and verifying the accuracy of any and all information, including all proprietary information, that is or may be submitted to the board by CMRS providers and ECDs.

"(6) To conduct a cost study on or before July 1, 1999, to be submitted to the Governor, the Lieutenant Governor, and the

Speaker of the House of Representatives for the purpose of determining whether legislation should be proposed during the 2000 Regular Session of the Alabama Legislature to adjust the amount of the CMRS service charge to reflect actual costs to be incurred by CMRS providers and ECDs in order to comply with the wireless E-911 service requirements established by the FCC Order and any rules and regulations which are or may be adopted by the FCC pursuant to the FCC Order.

“(7) To promulgate such rules and regulations as may be necessary to effect the provisions of this section.

“(8) To make the determinations and disbursements as provided by Section 11-98-8(c).

“(9) Neither the board nor any ECD shall require the CMRS providers to select or to deploy particular commercial solutions to meet the requirements of the FCC Order, provided the solutions chosen are compatible with the operations of the ECDs.

“(c) The CMRS service charge provided in subdivision (b)(1) shall be the sole charge assessed to CMRS providers relating to emergency telephone services.

“(d) The board shall serve without compensation, provided, however, that members of the board shall be entitled to be reimbursed for actual expenses and travel costs associated with their service.

“(e) Nothing in this chapter shall be construed to constitute the regulation of the entry of or rates charged by CMRS providers for any service or feature which they provide to their CMRS service customers, or to prohibit a CMRS provider from charging a CMRS service customer for any service or feature provided to the customer.

“(f) The board shall be subject to the Alabama Sunset Law under Chapter 20 of Title 41 of Code of Alabama 1975, shall be classified an enumerated agency under Section 41-20-3, and shall terminate on October 1, 2000, and every four years thereafter, unless continued as therein provided. If continued, the board shall be reviewed every four years thereafter and terminated unless continued into law.”

Section 2. Sections 11-98-8, 11-98-9, 11-98-11, and 11-98-12 are added to the Code of Alabama 1975, as follows:

§11-98-8.

(a) Each CMRS provider shall act as a collection agent for the CMRS Fund and shall, as part of the provider’s normal monthly

billing process, collect the CMRS service charges levied upon CMRS connections pursuant to Section 11-98-7(b)(1) from each CMRS connection to whom the billing provider provides CMRS service and shall, not later than 60 days after the end of the calendar month in which such CMRS service charges are collected, remit to the board the net CMRS service charges collected after deducting the fee authorized by subsection (b) hereof. Each billing provider shall list the CMRS service charge as a separate entry on each bill which includes a CMRS service charge.

(b) Each CMRS provider shall be entitled to deduct and retain from the CMRS service charges collected by the provider during each calendar month an amount not to exceed one percent of the gross aggregate amount of the CMRS service charges collected as reimbursement for the costs incurred by the provider in collecting, handling, and processing the CMRS service charges.

(c) The board shall be entitled to retain from the CMRS service charges collected during each calendar month an amount not to exceed two percent of the gross aggregate amount of such CMRS service charges collected as reimbursement for the costs incurred by the board in administering this chapter, including, but not limited to, retaining and paying the independent, third-party auditor to review and disburse the cost recovery funds and to prepare the reports contemplated by this chapter.

(d) The CMRS provider shall have no obligation to take any legal action to enforce the collection of the CMRS service charge. If a CMRS provider receives partial payment for a monthly bill from a CMRS subscriber, the CMRS provider shall apply the payment against the amount the CMRS subscriber owes the CMRS provider first, and shall remit to the board the lesser amount, if any, as shall result therefrom

(e) The charges and fees collected under this section shall not be subject to taxes or charges levied on or by the CMRS provider, nor shall the charges and fees be considered revenue of the CMRS provider for any purposes. The CMRS provider shall annually provide to the emergency communications district management review board an accounting of the amounts billed and collected and of the disposition of the amounts.

(f) State and local taxes do not apply to the CMRS service charge.

§11-98-9.

All technical proprietary information submitted to the board or to the independent, third-party auditor as provided by Section 11-98-7(b)(5) shall be retained by the board and the auditor in

confidence and shall be subject to review only by the Alabama Examiners of Public Accounts. Notwithstanding any other provision of the law, no technical proprietary information submitted shall be subject to subpoena or otherwise released to any person other than to the submitting CMRS provider, the board, and the independent, third-party auditor without the express permission of the administrator and the submitting CMRS provider. General information collected by the independent, third-party auditor shall only be released or published in aggregate amounts which do not identify or allow identification of numbers of subscribers or revenues attributable to an individual CMRS provider. Notwithstanding any other provision of the law, no district, political subdivisions, CMRS Provider, local exchange company, or their employees, directors, officers, or agents shall be liable for any damages in a civil action or subject to criminal prosecution resulting from death, injury, or loss to persons or property incurred by any person in connection with establishing, developing, implementing, maintaining, operating, and otherwise providing wireless enhanced 911 service in compliance with the requirements established by FCC Order 94-102 and any rules and regulations which are or may be adopted by the FCC pursuant to the Order, except in the case of willful or wanton misconduct.

§11-98-11.

(a) The telephone number 911 is restricted to emergency calls that may result in dispatch of the appropriate response for: fire suppression and rescue, emergency medical services or ambulances, hazardous material, disaster, or major emergency occurrences, and law enforcement activities.

(b) The digits 911 shall be the primary emergency telephone number, but the involved agencies may maintain a separate secondary backup number and shall maintain a separate number for non-emergency telephone calls.

(c) No person shall connect to a service supplier's network or to a CMRS provider's network any automatic alarm, or other automatic alerting device that automatically dials, without human initiation, and provides a pre-recorded message in order to directly access the services that may be obtained through dialing 911.

(d) The making of a false alarm, complaint, or knowingly reporting false information using the E-911 system, may subject the caller to penalties as provided by law.

§11-98-12.

(a) The emergency telephone system shall be designed to have the capability of utilizing at least one of the following four methods in response to emergency calls:

(1) Direct dispatch method, which is a telephone service to a centralized dispatch center providing for the dispatch of an appropriate emergency service unit upon receipt of a telephone request for such services and a decision as to the proper action to be taken.

(2) Relay method, which is a telephone service whereby pertinent information is noted by the recipient of a telephone request for emergency services, and is relayed to appropriate public safety agencies or other providers of emergency services for dispatch of an emergency service unit.

(3) Transfer method, which is a telephone service which receives telephone requests for emergency services and directly transfers such requests to an appropriate public safety agency or other provider of emergency services.

(4) Referral method, which is a telephone service which, upon the receipt of a telephone request for emergency services, provides the requesting party with the telephone number of the appropriate public safety agency or other provider of emergency services.

(b) The board of commissioners of the district shall select the method which it determines to be the most feasible for the county or municipality.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective on May 1, 1998.

Passed the Governor's veto to the contrary notwithstanding, on April 16, 1998.

Act No. 98-339

H. 84 – Reps. Johnson (R), Flowers

AN ACT

To amend Section 22-21-265 of the Code of Alabama 1975, relating to the control and regulation of development of certain health care facilities or services, to provide that an existing provider of home health services meeting specified criteria may accept referrals from counties contiguous to those constituting the existing service area without obtaining a new certificate of need.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 22-21-265 of the Code of Alabama 1975, is amended to read as follows:

“§22-21-265.

“(a) On or after July 30, 1979, no person to which this article applies shall acquire, construct, or operate a new institutional

health service, as defined in this article, or furnish or offer, or purport to furnish a new institutional health service, as defined in this article, or make an arrangement or commitment for financing the offering of a new institutional health service, unless the person shall first obtain from the SHPDA a certificate of need therefor. Notwithstanding any provisions of this article to the contrary, those facilities and distinct units operated by the Department of Mental Health and Mental Retardation, and those facilities and distinct units operating under contract or subcontract with the Department of Mental Health and Mental Retardation where the contract constitutes the primary source of income to the facility, shall not be required to obtain a certificate of need under this article.

“(b) Notwithstanding all other provisions of this article to the contrary, the replacement of equipment by health care facilities shall be exempt from certificate of need review, provided:

“(1) The replacement does not change the purpose, use, or application of the equipment.

“(2) The existing equipment is taken out of service.

“(3) The replacement equipment does not enable the health care facility to expand its health services.

“(4) The replacement equipment does not enable the health care facility to provide any health services not previously provided on a regular basis.

“A determination of whether the acquisition of equipment is exempt from review under this section shall be made by the Executive Director of the SHPDA upon the filing of an application requesting the determination, on the form or forms prescribed by the CON review board, together with a fee in the amount of 10 percent of the fee provided in Section 22-21-271. If it is determined that the replacement is not reviewable pursuant to this section, the applicant shall be notified in writing that no certificate of need is required. The SHPDA shall define an appeals process.

“Any provision in this article to the contrary notwithstanding, no rural hospital shall be required to submit an application fee when filing a request for determination under this section.

“(c) The SHPDA shall maintain the Alabama State Health Plan to include separate bed need methodologies for inpatient psychiatric services, inpatient rehabilitation services, and inpatient/residential alcohol and drug abuse services. The SHPDA shall utilize these methodologies in considering all certificate of need applications.

“(d) Notwithstanding all other provisions of this article to the contrary, the increase in the number of nursing home beds of a health care facility licensed pursuant to Section 22-21-260(6) as a skilled nursing care facility or an intermediate care facility, but excluding an increase in the bed capacity of an intermediate care facility designated as an ICF-MR by the State Board of Health and operated by the State Department of Mental Health and Mental Retardation which facilities shall be governed by the other provisions of this article, shall be exempt from certificate of need review, provided:

“(1) The increase does not exceed 10 percent of the total skilled nursing beds of the facility, rounded to the nearest whole number, or 10 beds, whichever is greater.

“(2) The average rate of occupancy for the nursing home beds of the facility is not less than 95 percent, rounded to the nearest whole number, for the 24-month period ending on June 30 of the year immediately preceding the application for exemption from the certificate of need review.

“(3) The aggregate average rate of occupancy for all other skilled nursing facilities and intermediate nursing facilities in the same county as the requesting facility’s is not less than 95 percent, rounded to the nearest whole number, for the 24-month period ending on June 30 of the year immediately preceding the application for exemption from certificate of need review.

“(4) The increase does not require capital expenditures exceeding the capital expenditure thresholds prescribed in Section 22-21-263(a)(2).

“(5) The facility has not been granted an increase of beds under this exemption within the immediately preceding 24-month period.

“In calculating the average occupancy for the facility under subdivision (2) of this subsection and for all other skilled and intermediate nursing facilities in the same county under subdivision (3) of this subsection, beds previously granted including beds granted after January 1, 1995, to the facility, and to other skilled or intermediate nursing facilities in the same county as the requesting facility, pursuant to a certificate of need or to this exemption shall be deemed built and available for occupancy as of the date granted regardless of when the beds were placed in service. SHPDA shall promulgate regulations to determine how occupancy shall be calculated for the purpose of this subsection, taking into account certain factors such as, but without limitation, disregarding beds that have not been available for use for the three (3)

years next preceding the period for which occupancy is being measured.

“(6) Any exemption to add beds without a certificate of need shall expire and be deemed null and void unless the beds are placed in service not less than 12 months after the date the exemption is granted. Notwithstanding the foregoing, SHPDA may promulgate rules permitting the Executive Director of SHPDA to grant one extension not to exceed twelve months upon a showing of substantial progress. Notwithstanding the foregoing, any exemption granted by the SHPDA prior to April 10, 1995, for facilities which have agreed to the provisions of the June 21, 1995 consent decree, is ratified and confirmed and shall be deemed to have been granted in accordance with this subsection. In addition, any facility which was granted an exemption by the SHPDA prior to April 10, 1995, is ratified and confirmed and shall be deemed to have been approved as of the latter of the actual date approved or March 3, 1995 and to have been granted in accordance with this subsection.

“Determination of whether the increase in beds is exempt from review under this section shall be made by the Executive Director of SHPDA upon the filing of an application requesting the determination, on the form or forms prescribed by the CON review board, together with a fee in an amount to be determined by the review board in accordance with Section 22-21-271(a). The SHPDA shall promulgate rules affording an applicant pursuant to this subsection a right to appeal adverse rulings.

“Applications pursuant to this section for exemption from certificate of need review for an increase in bed capacity shall be made only during the 90-day period beginning January 1 through March 31 of each year.

“The provisions of Acts 1994, No. 94-209 shall automatically terminate and become null and void on December 21, 2000, unless a bill to continue or reestablish the provisions of Acts 1994, No. 94-209 shall be passed by both houses of the Legislature and enacted into law.

“(e) Notwithstanding all other provisions of this article to the contrary, an existing home health agency may accept referrals of patients from outside its Medicare certified service area without obtaining a certificate of need, provided all of the following conditions are met:

“(1) The county of the referral is contiguous to a county for which the home health agency held a certificate of need or an exemption granted pursuant to provisions of Section 22-21-263, on the effective date of the act adding this subdivision section.

"(2) The home health agency establishes no branch office in the county of the referral.

"(3) The home health agency incurs no capital expenditures in the county of the referral in excess of five hundred dollars (\$500).

"The home health agency shall notify the SHPDA that it has begun accepting referrals from a county contiguous to its service area within 14 days of the receipt of the first referral from the contiguous county. No notice to the SHPDA shall be required related to subsequent referrals in the same contiguous county. The SHPDA shall take steps to provide for the inclusion of statistical information relating to the service to referrals outside the Medicare certified service area in its annual statistical reports. The SHPDA shall charge the home health agency no fee for servicing referrals outside the service area."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 16, 1998

Time: 6:45 P.M.

Act No. 98-340

S. 611 – Senators Roberts, Butler,
and Hale

AN ACT

Relating to Morgan County; authorizing the Morgan County Commission to appropriate county funds to supplement the salary of a confidential employee assigned to the presiding judge of the Eighth Judicial Circuit.

Be It Enacted by the Legislature of Alabama:

Section 1. The Morgan County Commission may appropriate county funds to supplement the salary paid by the State of Alabama to the confidential employee assigned to the presiding judge of the Eighth Judicial Circuit.

Section 2. The supplemental funds the Morgan County Commission appropriates for the purposes of Section 1 of this act shall be paid in the same manner as other funds for salaries are paid from the county treasury.

Section 3. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 16, 1998

Time: 6:46 P.M.

Act No. 98-341

S. 264 – Senator Freeman

AN ACT

Relating to the control and regulation of development of certain healthcare facilities; to amend Sections 22-21-274 and 22-21-275, Code of Alabama 1975, as amended, relating to rules and regulations governing review procedures by the State Health Planning and Development Agency (SHPDA); to provide for a public hearing whether or not requested by persons directly affected by the review and to provide for a public hearing before an administrative law judge in a contested case upon request; to provide that a request for reconsideration may be filed only by an aggrieved party, including any competing applicant or any aggrieved person who intervened pursuant to Section 41-22-14, Code of Alabama 1975; to provide that the 15-day period for filing requests for reconsideration or fair hearing runs from the date the agency decision becomes final; to provide that a decision of the SHPDA shall become final upon the expiration of 15 days following the date of decision; to provide that there can be no request for reconsideration, or reconsideration from a final decision on a prior request for reconsideration; to provide that a request for reconsideration is not required prior to or as a condition to requesting a fair hearing, and that neither a request for reconsideration nor a fair hearing is required prior to or as a condition to seeking judicial review; to provide that an adverse decision of the SHPDA may be appealed to an administrative law judge rather than to an agency other than the SHPDA, by request for a fair hearing filed with the agency, which appeal shall be heard de novo where the SHPDA's hearing was not conducted in accordance with Sections 41-22-12 and 41-22-13, Code of Alabama 1975, and which appeal shall be conducted pursuant to the requirements of the Alabama Administrative Procedure Act and regulations consistent therewith; to provide that any applicant or any competing applicant may apply for a fair hearing; to provide for the shortening of time to request a fair hearing to within 15 days of a final agency decision, or a final decision on reconsideration if a request for reconsideration is filed; to provide that any aggrieved party may appeal to circuit court, and to provide for where such an appeal may be filed; to clarify and correct grammatical errors; to amend Section 22-21-270, Code of Alabama 1975, to provide that a certificate of need may be transferable, assignable or convertible between members of a parent-subsidiary controlled corporate group as defined in Internal Revenue Code, 26 USC Section 1563(a)(1), and to provide that a transfer of corporate stock shall not constitute a transfer of a certificate of need; to clarify when a certificate of need shall be continued in effect; and to clarify when SHPDA may continue the certificate of need during work stoppage; to exempt certain healthcare facilities from the CON requirement under certain conditions for the provision of open heart surgery; and to repeal all conflicting laws.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 22-21-270, 22-21-274, and 22-21-275, Code of Alabama 1975, are amended to read as follows:

“§22-21-270.

“(a) A certificate of need issued under subsection (a) of Section 22-21-265 and Section 22-21-268 shall be valid for a period not to exceed 12 months and may be subject to one extension not to exceed 12 months, provided the criteria for extension as set forth in the rules and regulations of the SHPDA are met. If no obligation has occurred within such period, the certificate of need shall be considered terminated and shall be null and void. Should the obligation be incurred within such valid period, the certificate of need shall be continued in effect for a period not to exceed one year or the completion of the construction project, whichever shall be later, or the inauguration of the service or the actual purchase of equipment.

(b) Failure to commence the construction project within the time period stated in the construction contract or to complete the construction project within the time period specified in the construction contract, which may be extended by mutual agreement of the parties to the contract, shall render the certificate of need null and void, unless tolled or extended pursuant to statute or SHPDA rule or regulation. Provided, the SHPDA, or an administrative law judge appointed by the Governor on appeal for a fair hearing, may for causes beyond the control of the applicant, continue the certificate of need in force if commencement of the construction project is delayed for a period not to exceed 60 days or if during the specified construction period the construction work should cease for not more than six months, or in the event of default in the construction contract by the contractor, or if, for any cause, the construction work has not ceased or otherwise been stopped for a period exceeding 60 consecutive days.

“(c) Applicants who held valid certificates of need which were terminated under this section may file a new application for a certificate pursuant to and subject to the provisions of this article.

“(d) Upon completion of the construction and issuance of a certificate of completion or the receipt of proof of purchase of equipment, the certificate of need shall be continued in force and effect.

“(e) A certificate of need shall not be transferable, assignable, or convertible, other than between members of a parent-subsidiary controlled corporate group as defined in Internal Revenue Code, 26 U.S.C. § 1563 (a)(1), and shall be valid solely to the person and purpose named thereon, except to such other member of the controlled group, or by change of name or merger with another corporation.

“(f) The transfer of stock in, or change of name or merger of, a corporation which holds a certificate of need shall not constitute a transfer, assignment, or conversion of the certificate.

“§22-21-274.

"The SHPDA, with the advice and consultation of the Statewide Health Coordinating Council, shall prescribe by rules and regulations the review criteria and review procedures required by this article. Said review criteria and review procedures shall be consistent with this article and with appropriate federal regulations. Prior to the adoption of rules and regulations, the SHPDA shall give wide publicity to the proposed rules and regulations and shall conduct a public hearing following legal notice of not less than 30 days. The public hearing shall be held in the City of Montgomery, Alabama. Prior to advertising the public hearing, the SHPDA shall submit the proposed rules and regulations to the Statewide Health Coordinating Council and other interested agencies. Future revisions of the rules and regulations shall be made as required in this section for the original rules and regulations and in accordance with the Administrative Procedures Act (§41-22-1 et seq.).

"§22-21-275.

"The SHPDA, pursuant to the provisions of Section 22-21-274, shall prescribe by rules and regulations the procedures for review of applications for certificates of need and for issuance of certificates of need. Rules and regulations governing review procedures shall include, but not necessarily be limited to, the following:

"(1) Agreement with other review agencies for review procedures consistent with this article and federal regulations.

"(2) Application procedures and forms of the application necessary to elicit and provide all necessary information as required by the review criteria.

"(3) Establishment of a project review period of 90 days from the date the state agency determines that the application is complete and notification thereof is made to the applicant. The rules and regulations may provide for a period of not more than 15 days for determination of the completeness of the application, notification of the beginning and termination dates of the project review period and criteria for determining by the state agency of an extension of the project review period not to exceed 30 days with or without the consent of the applicant. An extension of the review period without limitation may be made with the written consent of the applicant. All reviews must be completed prior to the termination of the review period. If the state agency does not make a decision within the period of time specified for state agency review, the proposal shall be deemed to have been found not to be needed.

"(4) Provision for a "nonsubstantive" review which shall be a modified review applicable to proposals for capital expenditures up to \$500,000.00 and which:

a. Do not result in a substantial change in a service; or

b. Propose equipment to upgrade or expand an existing service; or

c. Increase the bed capacity by not more than 10 percent of the existing bed capacity; provided, that such increase in bed capacity is consistent with the State Health Plan.

“(5) Public notification of receipt of application, review periods, public hearings, decisions of the state agency, fair hearings if requested and final decisions regarding a certificate of need.

“(6) Provisions and procedures for public hearings in the course of agency review on any application for the certificate of need for new institutional health service which requires substantive review. The SHPDA shall make provisions for a public hearing of any contested case before an administrative law judge designated by the Governor, which shall be conducted as a contested hearing pursuant to the requirements of the Alabama Administrative Procedure Act, Title 41 of Chapter 22, and regulations consistent therewith adopted under this article. SHPDA shall make provisions that if neither the applicant nor aggrieved party shall have requested the application be heard before an administrative law judge, the application shall be heard before SHPDA at a public hearing. Any aggrieved party to a final decision of SHPDA may appeal the final decision of SHPDA to the circuit court in the county in which the applicant resides or of the county in which the applicant is situated or in which the new institutional health service being applied for is located.

“(7) Schedule for reviews to include hearings before the state agency, beginning and ending of review periods and time of the review period as provided in this section.

“(8) Provision of the applicant to submit such information that he may deem advisable in justification of the application over and above the minimum information required by this article and the regulations adopted hereunder.

“(9) Provisions for periodic reports by the health provider or applicant respecting the development of the proposal subject to review and for which a certificate of need is issued.

“(10) Provisions for written findings, as appropriate, which the state used as the basis for its decision or any recommendation of the state agency. Such findings and recommendations shall be provided to the applicant and available to other interested persons upon request and upon payment of a reasonable fee to cover actual costs of reproduction and handling.

“(11) Notification upon request of providers of health services and other persons subject to review of findings, recommendations and decisions made under this article.

“(12) Provision for a public hearing upon written request for the reconsideration of a decision by the SHPDA and for good cause by any aggrieved party, including any competing applicant, or any aggrieved person who has intervened pursuant to Section 41-22-14. Request for reconsideration shall be made in writing not more than 15 days subsequent to the date the agency (SHPDA) decision is deemed final and shall have the effect of holding in abeyance the final decision and suspending any certificate of need issued pursuant thereto, subject to the outcome of the public hearing. The provision shall state that there can be no reconsideration by the SHPDA of a decision on a prior request for reconsideration; that an aggrieved party shall not be required to request reconsideration prior to or as a condition to requesting a fair hearing; and that an aggrieved party shall not be required to request reconsideration or a fair hearing prior to or as a condition to seeking judicial review pursuant to Section 41-22-20.

“(13) Provision that no decision of the SHPDA under this article shall be deemed final until 15 days following the date of the decision.

“(14) Provisions that any adverse decision of the agency (SHPDA) (other than a SHPDA decision after first being heard as a contested case before an administrative law judge pursuant to the requirements of the Alabama Administrative Procedure Act) may be appealed to an administrative law judge designated by the Governor for fair hearing which appeal shall be heard de novo as a contested case in accordance with Sections 41-22-12 and 41-22-13. The fair hearing appeal proceedings shall be conducted pursuant to the requirements of the Alabama Administrative Procedure Act, Title 41 of Chapter 22, and regulations consistent therewith adopted under this article. The appeal shall be commenced by a request for a fair hearing by the applicant or any competing applicant, which request shall be made within 15 days of the date that the decision by the state agency became final, or in the event of a request for reconsideration, within 15 days of the date that the decision of the state agency on reconsideration became final and shall have the effect of holding in abeyance the decision and suspending any certificate of need issued pursuant thereto subject to the outcome of the fair hearing. The decision of the administrative law judge in the fair hearing proceedings shall be considered the final decision of the state agency (SHPDA); provided, that any aggrieved party may appeal the decision to the circuit court of the county in which the applicant resides or of the county in which the applicant is situated or in which the new institutional health service being applied for is located.

“(15) Preparation and publication, at least annually, of reports by the state agency of the reviews being conducted, decisions reached, certificates issued and status of proposals.

“(16) Access by the general public to applications reviewed by the SHPDA and to other written material pertinent to the review.

“(17) Provisions for letters of intent in the case of construction projects by persons proposing such projects. Letters of intent shall be in such detail as the SHPDA may direct by regulations. Letters of intent shall not substitute for the formal application for a certificate of need as provided in this article.

“(18) Provision that the review procedure may vary according to the purpose for which a particular review is being conducted and/or the nature and type of service or expenditure proposed.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 17, 1998

Time: 8:00 A.M.

Act No. 98-342

S. 637 – Senator Poole

AN ACT

Relating to a Class IV municipality located in Tuscaloosa County; providing for the issuance of licenses by the Alabama Alcoholic Beverage Control Board in a Class IV municipality organized pursuant to Ala. Code Sec. 11-44B-1, et seq. (1975), without the approval of the governing body of the municipality, to clarify the nature of the appeal to the circuit court as well as other minor issues.

Be It Enacted by the Legislature of Alabama:

Section 1. All other provisions of law, rules, or regulations to the contrary notwithstanding, the Alabama Alcoholic Beverage Control Board shall absolutely have no authority to issue any form of license in a Class IV municipality organized pursuant to Ala. Code §11 44B 1, et seq. (1975), including, but not limited to, on or off-premise consumption licenses, special event or, special retail licenses, restaurant or lounge licenses, club licenses, or other licenses for the retail sale of any form of intoxicating beverages, including, but not limited to, beer and other forms of malt beverages, wine, liquor, or other alcoholic beverages regulated by the board, unless the application therefore has first been approved by the governing body of the municipality within whose corporate limits the site of the license is to be situated. The municipality is authorized to adopt and promulgate rules and regulations for the administration and processing of applications for such licenses.

Section 2. The Alabama Alcoholic Beverage Control Board may issue such license only if the denial of approval by the governing

body of the municipality has been set aside by order of the circuit court of the county in which the municipality is situated and such order has been affirmed by the appropriate appellate court, if an appeal has been taken. The circuit court of the county in which a municipality is located may set aside the denial of approval of a license only on the basis that the denial by the municipality was arbitrary and capricious in that there was no showing to the governing body of the municipality of any one of the following:

- (a) The creation of a nuisance.
- (b) Circumstances clearly detrimental to adjacent residential neighborhoods or the public health, safety and welfare.
- (c) Violations of applicable laws, ordinances or zoning regulations.

Section 3. Proceedings in circuit court to review an action of a municipal governing body denying approval of a license application shall be expedited proceedings, heard by a circuit judge without a jury who shall consider any testimony or matters presented to the city governing body and any new evidence presented in explanation or contradiction of the same. If a licensee ultimately prevails in any judicial review as provided for herein on any basis other than new evidence presented to the court that was not fully presented to the municipal governing body, then the applicant shall be entitled to an award of reasonable attorneys' fees against the municipality. Any proceeding to review the denial of approval of a license application by a municipality shall be commenced within fourteen (14) calendar days of the action by the municipal governing body and shall be set for hearing by the court within thirty (30) calendar days thereafter.

Section 4. This act shall supersede any and all laws, rules and regulations contrary to or inconsistent with this act.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved April 17, 1998

Time: 10:15 A.M.

Act No. 98-343

H. 736 – Rep. Morrow

AN ACT

Relating to Franklin County; to amend Sections 1, 2, 3, 4, and 5 of Act 54 of the 1965 Regular Session (Acts 1965, p. 75), as amended, and Section 6 of Act 515 of the 1963 Regular Session (Acts 1963, p. 1100), which acts establish a scholarship program for certain resident students of the county and levy a tobacco tax in the

county, to provide further for the eligibility of scholarships funded by the tax and for the disposition of the proceeds of the revenue from the tax, and to provide for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 1, 2, 3, 4, and 5 of Act 54 of the 1965 Regular Session (Acts 1965, p. 75), are amended to read as follows:

"Section 1. There shall be established a scholarship program for the benefit of residents of Franklin County. The revenue derived from the county tax levied by Act 515, approved September 14, 1963 (Acts 1963, V. II, p. 1100), is appropriated to the program and is deposited into the Franklin County Educational Board Account, which is hereby created. All funds in any predecessor scholarship account shall be transferred to this account.

"Section 2. (a) The Franklin County Educational Board is created to administer this act.

"(b) The board shall consist of 11 members. The county superintendent of education, the City of Russellville Superintendent of Education, and the county judge of probate shall be ex officio members of the board and each shall serve as a member so long as he or she retains his or her respective position or office. The governing bodies of Franklin County, Russellville, Red Bay, Phil Campbell, Hodges, and Vina shall each appoint one member; and the Advisory Board of Belgreen school shall jointly appoint one member, who shall be a resident of the Belgreen school district. The legislative delegation from Franklin County shall appoint a Franklin County resident, who is also an employee at the Phil Campbell campus, to represent the Northwest campus. The term of each appointed member shall be fixed by the body entitled to appoint the member.

"(c) The members of the board shall select from among themselves a chair and a vice chair, who shall each serve for one year and may upon selection serve successive terms, provided that the person remains a member of the board.

"(d) The board may adopt necessary rules and regulations to govern its meetings, provided that the board shall meet upon the call of the chair. A majority vote of the board shall be necessary for the award of funds from the account.

"(e) The board shall make an annual report to the county governing body of all expenditures approved for that school year. The report shall be open to the public for inspection.

"(f) Board members shall receive no compensation for serving on the board.

"Section 3. To be eligible to receive a scholarship adopted pursuant to Act 515, 1963 Regular Session, as amended in 1998, a person shall meet the requirements of this act and satisfy the policies and procedures promulgated by the board.

"Section 4. (a) Commencing with the 1998-1999 academic year, the board may award from the Franklin County Educational Board Account as many scholarships for each school year as its funds will allow to eligible recipients, subject to the limitations of this act and the policies and procedures promulgated by the board.

"(b) For the scholarship program adopted, the following conditions shall apply:

"(1) The board shall specify the documentation or material necessary to verify school attendance of applicants.

"(2) The board shall determine the minimum grade point average that a student must maintain in order to qualify for a scholarship.

"(3) A student must have resided in Franklin County for at least two consecutive years prior to seeking and qualifying for a scholarship.

"Section 5. (a) Each scholarship awarded pursuant to this act shall only be used for a student's tuition at an in-state institution of higher learning.

"(b) Scholarship funds shall be distributed equally among all undergraduate college students of any institution of higher education who meet residence requirements in Franklin County and who seek reimbursement as provided herein. At the end of each academic year, each resident student of the county who provides receipts for undergraduate college attendance shall be eligible for a scholarship reimbursement. In May and June of each year, any eligible student may submit and be reimbursed for expenses of the prior year for college attendance. The board, based upon the limitations of subsection (c), the number of applicants, and other relevant factors, shall determine the amount distributed to each applicant

"(c) A reserve fund in an amount to be determined by the board shall be maintained at all times. The Chair of the Franklin County Educational Board shall call a meeting of the board each year prior to September 1 for the purpose of reviewing the revenues, protecting the reserve fund, establishing the amount to be awarded each recipient for the following year, and formulating any other policies the board deems appropriate for the purpose of approving expenditures from the fund.

“(d) All revenues shall be collected by the custodian of county funds of Franklin County and disbursed in a timely fashion. All actions regarding the revenues shall be subject to the standard audit procedures of the State of Alabama.”

Section 2. Section 6 of Act 515, 1963 Regular Session (Acts 1963, p. 1100), is amended to read as follows:

“Section 6. (a) The State Department of Revenue shall charge the county for collecting the special county taxes levied in this act an amount, not to exceed 10 percent of the amount collected, as the Commissioner of Revenue and the governing body of the county may determine. The charge for collecting the taxes for the county may be deducted each month from the proceeds of the taxes collected before certifying the amount thereof due the county for that month.

“(b) The commissioner shall pay into the State Treasury all county taxes collected under this act, as received by the department. On or before the 10th day of each successive month, commencing with the month following the month in which the department makes the first collections hereunder, the commissioner shall certify to the State Comptroller the amount of taxes collected under the provisions of this act and paid into the State Treasury for the benefit of the county during the month immediately preceding the certification of the amount. Provided, that before certifying the amount of taxes paid, the commissioner may deduct from the taxes collected in the month the charges due the department for the collection of the taxes for the county.

“(c) The comptroller shall issue a warrant each month payable to the custodian of the public funds of the county in an amount equal to the amount certified by the commissioner as having been collected for the use of the county.

“(d) The custodian of county funds shall deposit the revenue derived by the county ~~from the taxes levied herein into a special Franklin County Educational Board Account created pursuant to Act 54, 1965 Regular Session (Acts 1965, p. 75), as amended.~~

“(e) At the earliest possible date of either the June 1998 primary election, the June 1998 runoff election, or the November 1998 general election, a referendum shall be held in Franklin County to determine the sholarship recipients of the proceeds of the tobacco tax. The notice of the election shall be given by the judge of probate, and the election shall be held, conducted, and the results canvassed in the manner as other county elections. The county shall pay any costs and expenses not otherwise reimbursed by a governmental agency which are incidental to the election. The question shall be presented substantially as follows:

“Which of the following do you favor for the use of Franklin County tobacco tax proceeds? (Choose one.)

“_____ (1) To fund scholarships for Franklin County students attending any in-state institution of higher learning.

“_____ (2) To fund scholarships for Franklin County students attending the Phil Campbell Campus of the Northwest-Shoals Community College.

“_____ (3) To fund scholarships for Franklin County students attending the Phil Campbell Campus of the Northwest-Shoals Community College, Shoals Community College, Bevill State Community College, or the University of North Alabama.

“(f) The qualified electors of Franklin County who vote in the June 1998 election shall determine the use of the tax proceeds. The selection receiving the greatest number of votes cast shall be the use to which the proceeds are put. The Judge of Probate of Franklin County shall certify the results of the election to the Secretary of State.

“(g) In the event of a tie vote, a runoff election shall be held at the next regularly held county-wide election to determine how the tobacco tax proceeds shall be utilized.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved April 17, 1998

Time: 12:15 P.M.

Act No. 98-344

H.J.R. 474 – Reps. Hogan and Guin

HOUSE JOINT RESOLUTION

RECOGNIZING THURSDAY MAY 7, 1998, AS THE 47TH ANNUAL NATIONAL DAY OF PRAYER.

WHEREAS, prayer is the mainspring of the American spirit, a fundamental tenet of our people since before the Republic was founded; a year before the Declaration of Independence in 1775, the Continental Congress proclaimed the first National Day of Prayer as the initial positive action they asked of every colonist; and

WHEREAS, more than two hundred years ago in 1783, the Treaty of Paris officially ended the long, weary Revolutionary War

during which a National Day of Prayer had been proclaimed every spring for eight years; when peace came, the National Day of Prayer was forgotten; for almost half a century, as the Nation grew in power and wealth, we put aside this deepest expression of American belief — our national dependence on the Providence of God; and

WHEREAS, it took the tragedy of the Civil War to restore a National Day of Prayer; as Abraham Lincoln said, “Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us”; and

WHEREAS, revived as an annual observance by Congress in 1952, the National Day of Prayer has become a great unifying force for our citizens who came from all the great religions of the world; prayer unites people; this common expression of reverence heals and brings us together as a Nation and we pray it may one day bring renewed respect for God to all the people of the world; and

WHEREAS, from General Washington’s struggle at Valley Forge to the present, this Nation has fervently sought and received divine guidance as it pursued the course of history; this occasion provides our Nation with an opportunity to further recognize the source of our blessings, and to seek His help for the challenges we face today and in the future; and

WHEREAS, Thursday, May 7, is the 47th Annual National Day of Prayer, which will be observed by citizens gathering for prayer at our churches, city halls, and state capitols throughout Alabama and the Nation at 12:00 noon local time; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we support the 47th Annual National Day of Prayer in Alabama and encourage its support statewide.

Approved April 17, 1998

Time: 12:02 P.M.

Act No. 98-345

H.J.R. 475 – Rep. Haney

HOUSE JOINT RESOLUTION

COMMENDING MEDAL OF HONOR NOMINEE OFFICER KEN BROOKS OF THE HUNTSVILLE, ALABAMA, POLICE DEPARTMENT FOR OUTSTANDING HEROISM.

WHEREAS, it is with highest admiration and esteem that the Alabama Legislature recognizes 1998 Alabama Legislature Law Enforcement Medal of Honor nominee Officer Ken Brooks of the Huntsville, Alabama, Police Department for his extraordinary

courage and commitment in the apprehension and arrest of a violent criminal; and

WHEREAS, shortly before midnight on June 17, 1997, during a traffic violation investigation, when suddenly faced with a life-threatening situation, and engaged in a desperate struggle with a violent attacker who threatened his life with his own pistol, Officer Ken Brooks responded with uncommon fortitude and strength of courage and purpose which, despite multiple injuries, allowed him to survive the vicious onslaught, and led to the arrest of his attacker, for which act he was nominated for the Medal of Honor; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his valiant and courageous action in the face of impending danger, and for his dedication and commitment to the honorableness of his profession, we hereby most highly commend Officer Ken Brooks of the Huntsville, Alabama, Police Department, and direct that he receive a copy of this resolution as an expression of our admiration and esteem.

Approved April 17, 1998

Time: 12:03 P.M.

Act No. 98-346

H.J.R. 403 – Reps. Hall (L), Baker, Bandy, Black (L), Boyd, Buskey, Clark (W), Ford (J), Hayden, Hilliard, Holmes, Houston, Jackson, Johnson (E), Kennedy, Knight (J), Maull, McAdory, McClammy, Melton, Minnifield, Mitchell, Newton (D), Perdue, Rogers (J), Spratt and Thomas (J)

HOUSE JOINT RESOLUTION

COMMENDING GREGORY B. CALHOUN FOR OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, Gregory B. Calhoun, who is President and CEO of Calhoun Enterprises, owns five supermarkets in Alabama and opened his sixth and largest store in Montgomery, Alabama, on April 2, 1998; and

WHEREAS, representing the minority business professional, Mr. Calhoun has brought great credit to himself as a highly successful entrepreneur with Calhoun Foods, as well as a consulting

firm, The Calhoun and Associates Network, which oversees minority affairs for America's prominent corporations; and

WHEREAS, as a result of his tireless hard work and unwavering commitment, Mr. Calhoun was able to purchase his first supermarket in Montgomery during 1984 and, after compiling an impressive record of success, hired more than 500 employees in stores in Montgomery, Tuskegee, and Selma; and

WHEREAS, the recipient of numerous prestigious awards on the local, state, and national level, Mr. Calhoun received the National Minority Retail Firm of the Year Award in 1990, sponsored by the United States Department of Commerce, and was named one of the top 100 Black-owned businesses in the United States in 1992 by Black Enterprise magazine; and

WHEREAS, he has made invaluable contributions to the local community through sponsorship of the Walter Payton Legends Celebrity Golf Classic, his dedicated hard work with the YMCA, and for the positive impact he has had upon countless youth as a mentor and friend; and

WHEREAS, a true servant of the community, Mr. Calhoun has been responsibly involved with numerous boards including the Montgomery Area Food Bank, Montgomery Area United Way, Sterling Bank, and the Food Marketing Institute; and

WHEREAS, Mr. Calhoun, who is a faithful member of First Baptist Church, is married to his supportive and extraordinarily skillful chief partner and vice president, Verlyn, and they are the proud parents of three children; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we most highly commend and congratulate Gregory B. Calhoun for his outstanding professional achievements and presented a copy of this resolution as evidence of sincere best wishes for continued happiness and future success.

Approved April 17, 1998

Time: 12:04 P.M.

Act No. 98-347

H.J.R. 409 – Reps. McMillan and Penry

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF STEPHEN EDWIN STANFORD OF MAGNOLIA SPRINGS, ALABAMA.

WHEREAS, it is with the most profound sorrow and deep sense of loss that word has been received of the death of Stephen Edwin Stanford of Magnolia Springs, Alabama, on March 30, 1998; and

WHEREAS, a native of Butler County, Mr. Stanford was a faithful Senior Warden and church treasurer at St. Paul's Episcopal Church, and previously a devoted deacon, Sunday School teacher, and sponsor of youth activities at Cottage Hill Baptist Church; and

WHEREAS, he was a graduate and ardent supporter of Auburn University and served his country with professionalism in the United States Marine Corp during the Korean War; and

WHEREAS, exemplifying the highest standards of professionalism as an executive with South Central Bell in Mobile for thirty years, Mr. Stanford also ably served as chairman of the Baldwin County Board of Equilization and member of numerous organizations including Sertoma, Civitan Clubs, American Red Cross, and with commanding skill as president of the Telephone Pioneers, among others; and

WHEREAS, it is further noted that he used his extensive knowledge and innate talent as an intensely involved and valued supporter of the Mobile and Baldwin County Schools, exemplifying fine moral and civic leadership; and

WHEREAS, left to cherish the memories of Mr. Stanford are his loving wife, Mary Frances Stanford; daughters, Jo Stanford, Tammy Henley, and Fran Kollins; son, Stephen Edwin Stanford, Jr.; and five grandchildren; and other caring family members and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as we mourn his death, we give thanks for the life and service of Stephen Edwin Stanford, and extend deepest sympathy to his wife, Mary Frances, for whom a copy of this resolution shall be provided that she may know of our shared sorrow in her great and inconsolable loss.

Approved April 17, 1998

Time: 12:05 P.M.

Act No. 98-348

H.J.R. 237 – Reprs. Robinson and Sanderford

HOUSE JOINT RESOLUTION

NAMING THE SKYLINE WILDLIFE MANAGEMENT AREA
THE JAMES D. MARTIN-SKYLINE WILDLIFE MANAGEMENT
AREA.

WHEREAS, it was at the Skyline Wildlife Management Area, located in Jackson County, Alabama, that James D. Martin, Commissioner of the State of Alabama, Department of Conservation and Natural Resources, conceived the "Forever Wild" land acquisition and preservation program for the people of the State of Alabama which was adopted by the people in the form of a constitutional amendment; and

WHEREAS, as Commissioner, James D. Martin intervened to save a large portion of property (approximately 15,000 acres) which was being considered for sale to a foreign corporation, and, through his efforts, Alabama Power Company ultimately acquired and leased this property to the Department of Conservation and Natural Resources as part of the wildlife management area; and

WHEREAS, in September 1997, Commissioner Martin also acquired approximately 4,126 additional acres of property in Jackson County, Alabama, known as the "Jacobs Farms" properties, as additional property to be added to the wildlife management area for the State of Alabama; and

WHEREAS, Commissioner Martin has indeed kept his vision alive and has made significant contributions to the welfare of the people of the State of Alabama with regard to the preservation and protection of wildlife, fish, and other natural resources of the State of Alabama; and

WHEREAS, the State of Alabama Conservation Advisory Board at its official meetings expressed a desire that the Skyline Wildlife Management Area be renamed in order to honor Commissioner Martin for his countless contributions to the growth, expansion, and development of the wildlife management area; and

WHEREAS, the Alabama Legislature wishes to express its deep appreciation to Commissioner James D. Martin for his courageous and progressive attitude in protecting, preserving, and promoting Alabama's bountiful wildlife resources; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the wildlife management area formerly known as the Skyline Wildlife Management Area shall be permanently named the James D. Martin-Skyline Wildlife Management Area, and shall be so named and designated as such on an annual basis by the regulations of the State of Alabama, Department of Conservation and Natural Resources, Game and Fish Division.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Commissioner James D. Martin with gratitude and appreciation from the people of the State of Alabama.

Approved April 17, 1998

Time: 12:06 P.M.

Act No. 98-349

S.J.R. 65 – Senator Bailey

SENATE JOINT RESOLUTION

COMMENDING DR. TED W. BULLARD ON HIS OUTSTANDING COMMUNITY ACHIEVEMENTS.

WHEREAS, Dr. Ted W. Bullard is to be most highly commended for contributing significantly toward the good and well-being of his fellow citizens in Dothan, Alabama, and, as a tribute to his exemplary record of community service, he is deserving of special public commendation; and

WHEREAS, as a result of his tireless hard work and unwavering commitment, Dr. Bullard has succeeded in compiling an impressive record of civic achievements, a record that has earned for him the admiration and respect of those persons who have had the privilege of associating with him; and

WHEREAS, it is the desire of the Board of Commissioners and the City of Dothan, including Mayor Chester Sowell, Associate Commissioners George Williams, Jr., John H. Glanton, Jr., Don Clements, Ralph Smith, Patrick Thomas, and Matt Bullard, that U. S. Highway 84 West be designated and named the Ted W. Bullard Boulevard; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in accordance with the request of the Board of Commissioners of the City of Dothan that section of U. S. Highway 84 West, beginning at the Intersection of Flowers Chapel Road (state plane coordinates E779.734.51, N265.260.11) and traveling west to the Beaver Creek Bridge (state plane coordinates E759.665.62, N269.173.51) and ending at that point, shall hereafter be designated and named the Ted W. Bullard Boulevard, and the appropriate officials are requested to install and maintain signs or numbers for the designated area.

BE IT FURTHER RESOLVED, That in accordance with the request of the Board of Commissioners of the City of Dothan, a copy of this resolution be sent to the family of Dr. Ted W. Bullard with heartfelt appreciation from the citizens of Dothan.

Approved April 17, 1998

Time: 12:10 P.M.

Act No. 98-350

H. 889 – Rep. Parker (T)

AN ACT

Relating to Tuscaloosa County; to amend Sections 2, 4, 6, 11, 13, 18, 22, and 29 and to repeal Sections 21 and 28 of Act 328 of the 1959 Regular Session, as amended, to provide further for the board of trustees, qualifications for pension

benefits, payment of benefits, and the general administration of the Firemen's and Policemen's Pension and Relief Fund for the City of Tuscaloosa.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 2 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 86-556, amended further to read as follows:

"Section 2. The following words, terms, and phrases whenever used in this act shall have the meanings respectively ascribed to them in this section unless the context plainly indicates the contrary meaning: "City" or "such City" or "the city" means the City of Tuscaloosa, Alabama. "City clerk" means the chief financial officer of the city or his or her designated representative. "Fireman" means any regular full-time member of the fire department of such city employed as a firefighter or rank thereof. "Policeman" means any regular full-time member of the police department of such city employed as a police officer or rank thereof. The term "Board" and the term "Board of Trustees" means the Board of Trustees of the Firemen's and Policemen's Pension and Relief Fund created under this act. The term "Fund", "the fund," "such fund" and similar expressions, has reference to the "Firemen's and Policemen's Pension and Relief Fund" created under the provisions of this act. The term "salary" shall refer to the base salary (up to the contribution and benefit base under Section 230 of the Social Security Act in effect at the beginning of the plan year) of the member's classification and shall include overtime pay, official job assignment pay, and holiday pay, but shall not include bonuses, or other extra pay or benefits. Words used in this act in the past or present tense include the future as well as the past and present, and words used in the singular include the plural, and the plural the singular. Words in the masculine gender include the feminine."

Section 2. Section 4 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 91-509, is amended further to read as follows:

"Section 4. For the management and distribution of such fund, there is hereby created a Board of Trustees to be known as Board of Trustees of the Fireman's and Policemen's Pension and Relief Fund. Such Board of Trustees shall be composed of eleven members as follows: one member appointed by the Tuscaloosa City Council to serve a term concurrent with the terms of the members of the city council, who may be an employee of the city but not an employee of the police or fire department, the chief of the fire department, the chief of the police department, and three additional members from the fire department, three additional members from the police department and one retired fireman and one

retired police officer to be selected as hereinafter provided. The board shall elect a chairperson from among the members on an annual basis."

Section 3. Section 6 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), is amended to read as follows:

"Section 6. As of the effective date of this amendatory act, every fireman and every policeman, as hereinabove defined, shall be eligible to participate and shall participate in such fund. Provided, however, that any policeman or any fireman who has not, prior to the effective date of this amendatory act, participated in the fund shall not be required to do so."

Section 4. Section 11 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 1068 of the 1973 Regular Session, is amended further to read as follows:

"Section 11. The Board of Trustees, after considering the probable demands upon the fund, may invest such portion of it as may be safely withdrawn for the purpose. Of that portion of the fund which the Board of Trustees has determined to be available for investment, not less than 40 percent shall be invested, or held for investment, in interest bearing bond or securities of the United States of America, bonds of any state in the United States, any bonds lawfully issued by municipalities in the United States, or invested in any insured savings and loan association to the extent that such investment is insured by the Federal Savings and Loan Insurance Corporation; or invested in any commercial bank to the extent that such investment is insured by the Federal Deposit Insurance Corporation; not exceeding 60 percent of the money deemed available for investment may be invested in corporate stocks and bonds. All income from investments shall be and become a part of the fund. All securities belonging to the fund shall be deposited with the treasurer of the fund, or, in the event that a financial agent has been employed, may be held by the financial agent and shall be subject to the direction and control of the Board of Trustees."

Section 5. Section 13 of Act 328, of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 96-390, is amended further to read as follows:

"Section 13. Depository of Fund. The Board of Trustees shall appoint a financial institution (which may be a bank or trust company or other financial institution) as a depository and the treasurer of the fund shall promptly deposit all money belonging to the fund or coming into his or her hands as treasurer thereof in the depository. If any of the funds are dissipated or lost by reason of

the insolvency or failure of the financial institution appointed as the depository as provided herein, the dissipation or loss shall not constitute a liability on the official bond of the chief financial officer of the city as the treasurer of the fund nor a liability against the sureties thereon. All interest received on the deposits shall become a part of the fund."

Section 6. Section 18 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 80-611, is amended further to read as follows:

"Section 18. A. For the period before the effective date of this amendatory act, when any fireman or policeman shall be retired and placed upon the pension roll (except when retired under Section 23 hereof), the monthly pension payable for life which he shall be paid shall be a sum equal to four and four-tenths percentum (4.4%) of the amount of his "pension base," as defined at the time of retirement, multiplied by the number of entire years he has contributed to the Firemen's and Policemen's Pension and Relief Fund and has served in the department of which he was a member. Provided, however, the monthly pension shall be limited as provided in Section 29 hereof.

"B. From and after the effective date of this amendatory act, when any fireman or policeman shall be retired and placed upon the pension roll (except when retired under Section 23 hereof) the monthly pension payable for life which he or she shall be paid shall be a sum equal to the greater of the following:

"(1) Four and four-tenths percent of the amount of his or her "pension base" as of the date of this act multiplied by the number of entire years he or she has contributed to the fund as of the date of this act and has served in the department of which he or she was a member; provided, however, such monthly pension shall be subject to the limitations as set forth in Section 29 hereof; or

"(2) One and five-tenths percentum of the participant's average monthly salary for the 36 month period immediately preceding retirement multiplied by the number of entire years he or she has contributed to the fund and has served in the department of which he or she was a member but such monthly pension shall not be subject to any maximum or otherwise restricted by the limitations of Section 29 hereof, and shall be payable as a monthly annuity beginning at age 65.

"The term "pension base," as used in subsection B of this section means the monthly salary of the participant at the time of retirement, unless he or she has been demoted in the five-years immediately preceding his or her retirement, in which case his or

her "pension base" shall be the average monthly salary for the five-year period immediately preceding retirement, if greater."

Section 7. Section 22 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 1068 of the 1973 Regular Session, is amended further to read as follows:

"Section 22. Any fireman or policeman who has fully contributed to the fund and has been in the service of the police or fire department for as long as 25 years without regard to his then attained age upon application for retirement and termination of active employment, he or she shall be retired and placed on the pension roll by said Board of Trustees."

Section 8. Section 29 of Act 328 of the 1959 Regular Session (Acts 1959, p. 907), as last amended by Act 87-455, is amended further to read as follows:

"Section 29. Under no other circumstances shall any retired fireman or policeman be paid a pension or other benefit in excess of the following:

"A. For purposes of Sections 18A and 18B(1) of this act, the monthly pension shall not exceed two thousand dollars (\$2,000). For purposes of Section 18A and 18B(1), the \$2,000 limit may be increased by the Board of Trustees in such amount as an actuarial study may indicate is justified by the fund's condition for any firemen or policemen who contributed to the fund for 25 or more years.

"B. Any increase in the limitation hereinabove authorized to be made by the Board of Trustees shall be made by resolution duly spread upon its minutes, and no such increase shall be authorized unless and until an actuarial evaluation, made by some person, firm, or corporation experienced and nationally recognized in the field of actuarial evaluation, indicates the financial soundness of such increase. For the advice of the Board, such actuarial evaluation shall be requested at intervals, not exceeding 24 months.

"C. If an actuarial study provided above indicates that the fund's condition so warrants, the Board of Trustees may grant a percentage increase of all pensions and benefits payable under this act. The Board may grant different percentage increases to different classes of beneficiaries, but all members of a class must receive the same increase. If an actuarial study provided above indicates that the fund's condition so warrants, the Board of Trustees may grant a percentage increase (by classes of beneficiaries) in any maximum limitation set forth in this act. Each such increase may, but need not, be equivalent to the increase granted to all other pensions and benefits under this act. This act shall not affect any increases in benefits or limitations previously granted.

"D. Any persons under the coverage of the pension plan who have contributed to the fund for 15 years or more shall have their benefits immediately increased to not less than eight hundred forty-eight dollars and twenty-eight cents (\$848.28) or such other amount provided by resolution of the Board of Trustees.

"E. Any individuals who are receiving benefits of the Firemen's and Policemen's Pension and Relief Fund created by Act 187, S. 339, 1951 Regular Session, as amended, shall, upon passage of this act, become beneficiaries under the Firemen's and Policemen's Pension Fund created by Act 328, H. 854, 1959 Regular Session, and their total monthly benefits shall increase to three hundred dollars (\$300), including payments under both Act 187, S. 339, 1951 Regular Session, and this act. This subsection shall not be construed to increase or modify any benefits of any individuals other than those who are receiving benefits under Act 187, S. 339, 1951 Regular Session."

Section 9. Sections 21 and 28 of Act 328 of the 1959 Regular Session (Acts 1959, p.907), as amended, are repealed.

Section 10. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 11. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 17, 1998

Time: 3:30 P.M.

Act No. 98-351

H. 858 – Rep. Layson

AN ACT

Relating to the City of Northport in Tuscaloosa County; authorizing the governing body of the City of Northport to levy an additional ad valorem tax and providing for a referendum.

Be It Enacted by the Legislature of Alabama:

Section 1. Pursuant to subsection (f) of Amendment No. 373 to the Constitution of Alabama of 1901, the governing body of the City of Northport in Tuscaloosa County may levy, in addition to any other tax, an ad valorem tax in the amount of five mills on each dollar of taxable property in the city. The revenue from the additional tax shall be paid to the city general fund to be used for

general educational and public safety purposes, including, but not limited to, fire, police, and transportation purposes.

Section 2. The increase in the rate of the tax as provided by this act is subject to the approval of a majority of the qualified electors of the city who vote on the proposed increase at the next general, primary, constitutional, or special election held for that purpose.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law and shall become operational for the tax years beginning on or after October 1, 1999.

Approved April 17, 1998

Time: 3:31 P.M.

Act No. 98-352

H.J.R. 261 – Rep. Knight (A)

HOUSE JOINT RESOLUTION

URGING CONGRESS TO ADOPT AN AMENDMENT TO THE CONSTITUTION ON THE SUBJECT OF JUDICIAL TAXATION.

WHEREAS, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and

WHEREAS, under the United States Constitution, the states are to determine public policy; and

WHEREAS, it is the duty of the judiciary to interpret the law, not to create law; and

WHEREAS, our present federal government has strayed from the intent of our founding fathers and the United States Constitution through inappropriate federal mandates; and

WHEREAS, these mandates by way of statute, rule, or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and

WHEREAS, federal district courts, with the acquiescence of the United States Supreme Court, continue to order states to levy or increase taxes to comply with federal mandates, in violation of the United States Constitution and the legislative process; and

WHEREAS, the time has come for the people of this great nation and their duly elected representatives in state government,

to reaffirm, in no uncertain terms, that the authority to tax under the Constitution of the United States is retained by the people who, by their consent alone, do delegate such power to tax explicitly to those duly elected representatives in the legislative branch of government whom they choose, such representatives being directly responsible and accountable to those who have elected them; and

WHEREAS, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America which was previously introduced in Congress; and

WHEREAS, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and against the people's wishes; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, as follows:

1. That we hereby urge the Congress of the United States to prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows:

“Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or a political subdivision thereof, or an official of such a state or political subdivision, to levy or increase taxes.”

2. That this resolution constitutes a continuing application in accordance with Article V of the Constitution of the United States.

3. That we urge the legislatures of each of the several states comprising the United States that have not yet made a similar request to apply to the United States Congress requesting enactment of an appropriate amendment to the United States Constitution, and apply to the United States Congress to propose such an amendment in the United States Constitution.

4. That copies of this resolution be provided to the President and Vice President of the United States, the presiding officer in each house of the legislature in each of the states in the union, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the Alabama Congressional Delegation.

Approved April 20, 1998

Time: 8:30 A.M.

Act No. 98-353

H. 284 – Reps. Haney and Starkey

AN ACT

To make an appropriation of \$381,534 from the Education Trust Fund to the Space Science Exhibit Commission for the fiscal year ending September 30, 1999, for educational purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated for the fiscal year ending September 30, 1999, the sum of three hundred eighty-one thousand five hundred thirty-four dollars (\$381,534) to the Space Science Exhibit Commission from the Education Trust Fund for the Special Services Program.

Section 2. The above appropriation is for educational purposes which shall include but shall not be limited to the operation of the Space Camp Program and educating the general public in the various aspects of space exploration through the display of space hardware and other visual exhibits and training in space exploration.

Section 3. The provisions of this Act are severable. If any section, paragraph, sentence, clause, provision or portion of this Act or all or any portion of any appropriation or appropriations herein made be held unconstitutional or invalid, such holdings shall not affect any other section, paragraph, sentence, clause, provision or portion of this Act or any other appropriation or appropriations or portion thereof hereby made.

Section 4. This Act shall become effective October 1, 1998.

Approved April 21, 1998

Time: 8:30 A.M.

Act No. 98-354

H. 277 – Reps. Graham and Fuller

AN ACT

To make an appropriation of \$453,804 from the Education Trust Fund to Camp ASCCA in Jackson Gap, Alabama for the support and maintenance of a program to provide year round camping, recreation, and outdoor educational services in a barrier-free environment for physically and/or mentally disabled children and adults, for the fiscal year ending September 30, 1999; to provide that the appropriation is subject to certain provisions of the Code of Alabama 1975; and to require an operations plan and an audited financial statement prior to the release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated the sum of \$453,804 from the Education Trust Fund to Camp ASCCA in Jackson Gap, Alabama for the support and maintenance of a program to provide year round camping, recreation, and outdoor educational services in a barrier-free environment for physically and/or mentally disabled children and adults, for the fiscal year ending September 30, 1999.

Section 2. The above appropriation is made for the support of public education in Alabama and for the support and maintenance of the above program. The appropriation shall be subject to the provisions, terms, conditions, and limitations of the Budget and Financial Control Act, Code of Alabama 1975, Sections 41-4-80 et seq.; the provisions of The Budget Management Act of 1976, Code of Alabama 1976, Sections 41-19-1 et seq.; and any other provisions of this act.

Section 3. (a) Prior to the release of any funds appropriated under this act the following reports shall be submitted:

(1) An operations plan for the fiscal year 1998-99, including goals and measurable performance indicators, shall be submitted to and approved by the director of finance, as provided for state agencies in Code of Alabama 1975, Section 41-19-10.

(2) An audited financial statement for all operations during the fiscal year 1996-97.

(b) It is the intent of the Legislature that funds appropriated for fiscal year 1998-99 shall be released by the director of finance following receipt of the above reports.

(c) In addition, quarterly reports shall be made to the director of finance relating actual expenditures and accomplishments to planned expenditures and accomplishments. An end of year performance report for the fiscal year 1998-99 shall be made to the director of finance stating the work accomplished and the services provided and the costs of accomplishing the work and providing the services, citing meaningful measures of program effectiveness and costs, as is required for state agencies in Code of Alabama 1975, Section 41-19-11.

(d) The director of finance shall forward a copy of all required reports to the Joint Fiscal Committee in a timely manner.

Section 4. This act shall become effective October 1, 1998.

Approved April 21, 1998

Time: 8:31 A.M.

Act No. 98-355

H. 414 – Reps. McDaniel, Fuller, Laird, Morrison, Parker (T), Flowers, Penry, Knight (J), Newton (D), Pringle, Hooper, Johnson (R), Curry, Baker, Dukes, Gaines, White, Moore, Sanderson, Knight (A), Houston, Gipson, McMillan, Burke, Hogan, Turnham, McKee, Hawk, Page, Willis, Clouse, Warren, Hamilton, Turner, Guin, Letson, Sanderford, Murphree, Rogers (M), Hill, Papucci, Hinshaw, Allen, Carns, Drake, Ford, Carter, Venable, Collins, Starkey, Robinson, Hall (A), Galliher, Hall (L), Graham, Minnifield, Millican, Buskey, Spratt, Hilliard, Kennedy, Dean, Dolbare, Black (L), McClammy, Hayden, Jackson, Vance, Black (M), Box, Thomas (D), McAdory, Johnson (E), Newton (C), Payne, Crigler, Sims and Holmes

AN ACT

To provide a cost-of-living increase in pension benefits to certain members and certain beneficiaries of members of the Teachers' and Employees' Retirement Systems; to provide funding for the increase; and to provide that no person shall be entitled to receive the increase in benefits granted in this act if receipt of the increase would jeopardize the eligibility of a person to receive Medicaid benefits.

Be It Enacted by the Legislature of Alabama:

Section 1. Commencing October 1, 1998, there is provided to each person currently receiving benefits whose effective date of retirement was prior to October 1, 1998, for purposes of receiving benefits, and to certain beneficiaries of deceased members and deceased retirees currently receiving survivor benefits, if the effective date of retirement or death for the deceased retiree or deceased member was prior to October 1, 1998, for purposes of receiving benefits from the Teachers' Retirement System, a cost-of-living increase of not less than thirty dollars (\$30) per month and the increase shall be more if determined as follows:

(1) Four percent of the current gross benefit paid to the retiree and to certain beneficiaries of deceased members and deceased retirees.

(2) Two dollars (\$2) per month for each year of service attained by the retiree for each retiree selecting the maximum retirement allowance or option one.

(3) Two dollars (\$2) per month for each year of service attained by the retiree reduced by the retiree's option election factor for each retiree selecting option two, three, or four unless the beneficiary under the option selected is deceased on July 1, 1998, in which case the increase shall not be reduced.

(4) Two dollars (\$2) per month for each year of service attained by the deceased member or deceased retiree reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the Teachers' Retirement System.

Section 2. (a) Commencing October 1, 1998, there is provided to certain persons identified in subsection (b) of this section who are currently receiving benefits, whose effective date of retirement was prior to October 1, 1998, for purposes of receiving benefits from the Employees' Retirement System, and to certain beneficiaries of deceased members and deceased retirees who are currently receiving survivor benefits if the effective date of retirement or death for the deceased member or retiree was prior to October 1, 1998, for purposes of receiving benefits from the Employees' Retirement System shall receive a cost-of-living increase of not less than thirty dollars (\$30) per month and the increase shall be more if determined as follows:

(1) Four percent of the current gross benefit paid to the retirees and to certain beneficiaries of deceased members and deceased retirees.

(2) Two dollars (\$2) per month for each year of service attained by the retiree for each retiree selecting the maximum retirement allowance or option one.

(3) Two dollars (\$2) per month for each year of service attained by the retiree reduced by the retiree's option election factor for each retiree selecting option two, three, or four unless the beneficiary under the option selected is deceased on July 1, 1998, in which case the increase shall not be reduced.

(4) Two dollars (\$2) per month for each year of service attained by the deceased member or deceased retiree reduced by the survivor's option factor for each beneficiary receiving monthly benefits from the Employees' Retirement System.

(b) The benefits provided in this section are limited to those retirees whose participation in the Employees' Retirement System was based on Section 36-27-6, Code of Alabama 1975, and whose

employer at the time of retirement was a local board of education or a state supported institution of higher education. The benefits granted in this section shall not apply to any other participants in the Employees' Retirement System.

Section 3. The survivor allowance shall be adjusted as provided in Sections 1 and 2 for those eligible retirees who have selected a monthly survivor allowance payable to a designated beneficiary upon the death of the retiree.

Section 4. Any person who receives benefits under the Medicaid program and whose eligibility for the benefits would be impaired by the cost-of-living increase provided by this act shall not be entitled to receive the increase. Any person who shall subsequently apply for benefits under the Medicaid program and who would have his or her eligibility to receive benefits impaired by the cost-of-living increase provided by this act, shall not be entitled to receive the increase after the date that the member files application for benefits under the Medicaid program.

Section 5. This act is supplemental. It shall be construed in pari materia with other laws regulating and providing for the payment of retirement benefits to certain retired members of the Employees' and Teachers' Retirement Systems. Notwithstanding the foregoing, those laws or parts of laws which are in direct conflict with this act are repealed.

Section 6. This act shall become effective October 1, 1998, upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1998

Time: 8:32 A.M.

Act No. 98-356

H. 286 – Rep. Fuller

AN ACT

To make an appropriation of \$255,694 from the Education Trust Fund to the Governor's Commission on Physical Fitness for the fiscal year ending September 30, 1999.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Governor's Commission on Physical Fitness for the fiscal year ending September 30, 1999, the sum of \$255,694 out of the funds in the Education Trust Fund.

Section 2. The above appropriation is made for educational purposes which shall include but shall not be limited to maintaining

liaison with the State Department of Education, boards of education and private and parochial schools; advising on such programs of physical fitness; promoting physical fitness education for the mentally retarded and physically handicapped; and providing for physical educational facilities.

Section 3. The Governor's Commission on Physical Fitness is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1998-1999.

Section 4. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 5. This Act shall become effective on October 1, 1998.

Approved April 21, 1998

Time: 8:33 A.M.

Act No. 98-357

H. 494 – Reps. Haney, Papucci, Hinshaw,
Sanderford, Hall (L) and
Jorgensen

AN ACT

To make an appropriation of \$250,000 from the Education Trust Fund to Constitution Hall Village in Huntsville, Alabama for the support and maintenance of a living history museum program, for the fiscal year ending September 30, 1999; to provide that the appropriation is subject to certain provisions of the Code of Alabama 1975; and to require an operations plan and an audited financial statement prior to the release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated the sum of \$250,000 from the Education Trust Fund to Constitution Hall Village in Huntsville, Alabama for the support and maintenance of a living history museum program, for the fiscal year ending September 30, 1999. Every Alabama resident shall receive the same discount on admission to the Constitution Hall Village in Huntsville as the residents of the City of Huntsville receive.

Section 2. The above appropriation is made for the support of public education in Alabama and the support and maintenance of the above program. The appropriation shall be subject to the provisions, terms, conditions, and limitations of the Budget and Financial Control Act, Code of Alabama 1975, Sections 41-4-80 et seq.; the provisions of The Budget Management Act of 1976, Code of Alabama 1975, Sections 41-19-1 et seq.; and any other provisions of this act.

Section 3. (a) Prior to the release of any funds appropriated under this act the following reports shall be submitted:

(1) An operations plan for the fiscal year 1998-99, including goals and measurable performance indicators, shall be submitted to and approved by the director of finance, as provided for state agencies in Code of Alabama 1975, Section 41-19-10.

(2) An audited financial statement for all operations during the fiscal year 1996-97.

(b) It is the intent of the Legislature that funds appropriated for fiscal year 1998-99 shall be released by the director of finance following receipt of the above reports.

(c) In addition, quarterly reports shall be made to the director of finance relating actual expenditures and accomplishments to planned expenditures and accomplishments. An end of year performance report for the fiscal year 1998-99 shall be made to the director of finance stating the work accomplished and the services provided and the costs of accomplishing the work and providing the services, citing meaningful measures of program effectiveness and costs, as is required for state agencies in Code of Alabama 1975, Section 41-19-11.

(d) The director of finance shall forward a copy of all required reports to the Joint Fiscal Committee in a timely manner.

Section 4. No legislator or family member of any legislator, whether related to the legislator by blood or marriage, shall receive wages nor shall benefit financially from any appropriation made in this act.

Section 5. This act shall become effective October 1, 1998.

Approved April 21, 1998

Time: 8:34 A.M.

Act No. 98-358

H. 744 – Rep. Fuller

AN ACT

To make a supplemental appropriation of \$3,000,000 from the State General Fund and to make a supplemental appropriation of \$3,000,000 from the Education Trust Fund to the Alabama Department of Youth Services for the fiscal year ending September 30, 1998.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Alabama Department of Youth Services the sum of \$3,000,000 from the State General Fund and the sum of \$3,000,000 from the Education

Trust Fund for the fiscal year ending September 30, 1998. The appropriations made in this section are in addition to any and all other funds heretofore appropriated to the Alabama Department of Youth Services.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming law.

Approved April 21, 1998

Time: 8:35 A.M.

Act No. 98-359

H. 278 – Rep. Kennedy

AN ACT

To make an appropriation of \$295,305 from the Education Trust Fund and \$52,500 from the State General Fund to the AIDS Task Force of Alabama in Birmingham, Alabama for the support and maintenance of educational programs and services to help prevent the spread of HIV/AIDS and to provide services to individuals living with AIDS, for the fiscal year ending September 30, 1999; to provide that the appropriation is subject to certain provisions of the Code of Alabama 1975; and to require an operations plan and an audited financial statement prior to the release of any funds.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated the sum of \$295,305 from the Education Trust Fund and \$52,500 from the State General Fund to the AIDS Task Force of Alabama in Birmingham, Alabama for the support and maintenance of educational programs and services to help prevent the spread of HIV/AIDS and to provide services to individuals living with AIDS, for the fiscal year ending September 30, 1999.

Section 2. The above appropriation is made for the support of public education in Alabama and for the support and maintenance of the above program. The appropriation shall be subject to the provisions, terms, conditions, and limitations of the Budget and Financial Control Act, Code of Alabama 1975, Sections 41-4-80 et seq.; the provisions of The Budget Management Act of 1976, Code of Alabama 1975, Sections 41-19-1 et seq.; and any other provisions of this act.

Section 3. (a) Prior to the release of any funds appropriated under this act the following reports shall be submitted:

(1) An operations plan for the fiscal year 1998-99, including goals and measurable performance indicators, shall be submitted

to and approved by the director of finance, as provided for state agencies in Code of Alabama 1975, Section 41-19-10.

(2) An audited financial statement for all operations during the fiscal year 1996-97.

(b) It is the intent of the Legislature that funds appropriated for fiscal year 1998-99 shall be released by the director of finance following receipt of the above reports.

(c) In addition, quarterly reports shall be made to the director of finance relating actual expenditures and accomplishments to planned expenditures and accomplishments. An end of year performance report for the fiscal year 1998-99 shall be made to the director of finance stating the work accomplished and the services provided and the costs of accomplishing the work and providing the services, citing meaningful measures of program effectiveness and costs, as is required for state agencies in Code of Alabama 1975, Section 41-19-11.

(d) The director of finance shall forward a copy of all required reports to the Joint Fiscal Committee in a timely manner.

Section 4. No legislator or family member of any legislator, whether related to the legislator by blood or marriage, shall receive wages nor shall benefit financially from any appropriation made in this act.

Section 5. This act shall become effective October 1, 1998.

Approved April 21, 1998

Time: 8:36 A.M.

Act No. 98-360

H. 285 – Rep. Fuller

AN ACT

To make an appropriation of \$26,718,749 from the Education Trust Fund, an appropriation of \$2,936,141 from the Driver Impaired Trust Fund, and an appropriation of \$84,189,788 from Federal and Local Funds to the Department of Rehabilitation Services for the fiscal year ending September 30, 1999.

Be It Enacted by the Legislature of Alabama:

Section 1. There is hereby appropriated to the Department of Rehabilitation Services for the fiscal year ending September 30, 1999, the amounts as shown in Section 2 from the Education Trust Fund (ETF), the Driver Impaired Trust Fund, and Federal and Local Funds.

	Education Trust Fund	Earmarked Funds	Appropriation Total
2A. Executive Branch:			
1. Rehabilitation Services, Department of:			
(a) Direct Client Services for the Handicapped Program ...			113,844,678
The proposed spending plan for the ETF moneys included in the above program is as follows:			
Homebound	3,025,367		
Hemophilia.....	1,100,000		
Children's Rehabilitation Services	7,915,691		
Of the above appropriation the agency will pay to each hospital the standard per diem paid by the state medicaid agency for services relating to scoliosis and spina bifida medical care.			
Rehabilitation Services	10,109,534		
Of the above appropriation to Rehabilitation Services, \$250,000 shall be used for the Deaf Support Service.			
Early Intervention Program	4,568,157		
SOURCE OF FUNDS:			
(1) ETF	26,718,749		
(2) Driver Impaired Trust Fund.		2,936,141	
(3) Federal and Local Funds		84,189,788	
Total Rehabilitation Services, Department of.....	26,718,749	87,125,929	113,844,678
Of the above appropriation, the sum of \$50,000 shall be allotted to the Head Injury Foundation.			

Section 3. The above appropriation is made for educational purposes which shall include but shall not be limited to the following:

(a) Providing medical, paramedical, counseling and educational services (instruction in the training of disabled persons) to children with disabilities and their families. The Legislature recognized the educational nature of such services in Section 16-38-7 of the Code of Alabama 1975; (b) Providing vocational rehabilitation through a state-federal initiative for the purpose of teaching independent living skills in order to return the clients to the workforce; (c) Providing educational services to severely disabled clients which includes academic tutoring, and teaching of independent living skills, to allow school-age children to attend school.

Section 4. The Department of Rehabilitation Services is hereby authorized to make a transfer to the State Personnel Department in the amount authorized in the General Appropriation Bill for fiscal year 1998-99.

Section 5. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 6. This act shall become effective on October 1, 1998.

Approved April 21, 1998

Time: 8:37 A.M.

Act No. 98-361

H. 898 – Rep. Carothers

AN ACT

To provide that, in any instance in which the Legislature, by general or local act, has provided for or authorized the levy and collection within a county or municipality of a tax, other than an ad valorem tax, for school purposes and has specified that the authority for the levy of the tax shall terminate upon the payment in full of certain described bonds, warrants, or other obligations, the authority for the levy and collection of the tax shall continue until the payment in full of any obligations issued to refund the bonds, warrants, or other obligations.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature makes the following findings and determinations:

(1) In a number of instances, the Legislature, by general or local act, has authorized the levy and collection within a county or municipality of a tax, other than an ad valorem tax, for school purposes and has specified that the authority for the levy of the tax shall terminate upon the payment in full of certain generally or specifically described bonds, warrants, or other obligations.

(2) Counties, municipalities, boards of education, and other political subdivisions frequently realize substantial debt service

savings and other benefits through the issuance and sale of refunding obligations to provide for the payment and retirement of previously issued bonds, warrants, or other obligations.

(3) In order to facilitate the realization of the benefits that may be obtained through the refunding of outstanding obligations, and to avoid the consequence of unintentionally terminating the legal authority for the levy and collection of one or more specific taxes, it is appropriate and desirable for the Legislature to provide that the authority for the levy and collection of any tax that would otherwise terminate upon the payment of certain bonds, warrants, or other obligations shall continue until the payment in full of any refunding obligations referable thereto.

Section 2. In any instance in which the Legislature, by general or local act, has provided for or authorized the levy and collection within any county or municipality of a tax, other than an ad valorem tax, for school purposes, herein called a "Special School Tax," and has specified that the authority for the levy of such Special School Tax shall terminate upon the payment in full of certain generally or specifically described bonds, warrants, or other obligations, herein called "Original Obligations," if other bonds, warrants, or other obligations, herein called "Refunding Obligations," are issued to provide for the payment or redemption of some or all of the Original Obligations or any previously issued Refunding Obligations, the authority for the levy and collection of the Special School Tax shall continue until the payment in full of all Refunding Obligations. As used herein, the term "Refunding Obligations" includes bonds, warrants, or other obligations issued for multiple purposes, so long as one of those purposes is to provide for the payment or redemption of some or all of the Original Obligations or any previously issued Refunding Obligations.

Section 3. In no event shall this act be construed or applied in a manner that results in a termination date for the levy of any Special School Tax that is earlier than the termination date that would have been applicable if this act had not become effective.

Section 4. This act shall apply with respect to any Special School Tax heretofore or hereafter authorized by the Legislature that is subject to a termination provision of the type described herein and shall be given effect if related Refunding Obligations are issued either before or after the effective date of this act.

Section 5. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 21, 1998

Time: 8:38 A.M.

Act No. 98-362

S. 426 – Senators Biddle, Mitchem, Waggoner, Denton, Barron, Clay, Amari, Dial, Smith, Lipscomb, Steele, Freeman, Dixon, Roberts, Smitherman, Escott-Russell, Mitchell, Lindsey, Ghee, Windom, Adams, and Poole

AN ACT

To make a supplemental appropriation from the Armory Commission Fund in the State Treasury to the Military Department - Armory Commission of Alabama, in the amount of \$200,000 for the fiscal year ending September 30, 1998.

Be It Enacted by the Legislature of Alabama:

Section 1. There is appropriated from the Armory Commission Fund in the State Treasury to the Military Department - Armory Commission of Alabama the sum of two hundred thousand dollars (\$200,000) for the fiscal year ending September 30, 1998. The appropriation made in this section is in addition to any and all other funds heretofore or hereafter appropriated to the Military Department - Armory Commission of Alabama.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1998

Time: 8:39 A.M.

Act No. 98-363

H. 574 – Reps. Black (M) and Hooper

AN ACT

To amend Section 36-21-2 of the Code of Alabama 1975, relating to subsistence allowance for law enforcement officers; to provide allowance to the marshal and deputy marshals employed by the state appellate courts as law enforcement officers entitled to receive a subsistence allowance.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 36-21-2 of the Code of Alabama 1975, is amended to read as follows:

“§36-21-2.

“(a) Any law enforcement officer of the State of Alabama who is employed by the Department of Public Safety, Department of

Industrial Relations, Department of Conservation and Natural Resources, Alabama Alcoholic Beverage Control Board, Department of Agriculture and Industries, Alabama Department of Forensic Sciences, the Transportation Enforcement Division of the Alabama Public Service Commission. Alabama Liquefied Petroleum Gas Board, probation and parole officers of the Alabama Board of Pardons and Paroles, fire marshals of the Department of Insurance, revenue enforcement officers of the Department of Revenue, law enforcement officers of the State Capitol Police, any investigator employed by a district attorney on a full-time basis, the marshal or any deputy marshal of the state appellate court or correctional officers of the Department of Corrections shall receive a subsistence allowance of twelve dollars (\$12) for each working day of a pay period while engaged in the performance of the duties as a law enforcement officer. This allowance shall be in addition to all other compensation, expenses, and allowances provided those officers.

“(b) The subsistence allowance shall not be subject to any income or other taxes levied by the State of Alabama or the federal government.

“(c) The act adding this amendatory language regarding the Department of Corrections correctional officers shall be phased-in in the amount of one dollar (\$1) per fiscal year for the 12 years beginning October 1, 1995. In any year that it is determined by Senate Joint Resolution or House Joint Resolution enacted by both houses and signed by the Governor that because of fiscal emergency the implementation of the one dollar (\$1) per fiscal year shall be suspended for that year only, this subsistence allowance, or any portion thereof, may be suspended.

“(d) The additional subsistence allowance added pursuant to Act 97-720 for all law enforcement officers listed in subsection (a), but excluding those officers listed in subsection (c), shall become effective October 1, 1997.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 21, 1998

Time: 2:45 P.M.

Hawk, Dukes, Penry, Sanderford, Turnham, Layson, Vance,
Jackson, Maull, McMillan, Dean and Hammett

AN ACT

To amend Sections 25-4-10, 25-4-16, and 25-4-54, Code of Alabama 1975, relating to excluding the services of an inmate of a penal institution as employment for unemployment compensation purposes; to exclude from the definition of wages, educational benefits paid by an employer on behalf of an employee; and to clarify conditions as to when an employer will be subject to a penalty rate for the delinquent payment of unemployment compensation taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 25-4-10, 25-4-16, and 25-4-54, Code of Alabama 1975, are amended to read as follows:

“§25-4-10.

“(a) Subject to other provisions of this chapter, “employment” means:

“(1) Any service performed prior to January 1, 1978, which was employment as defined in this section prior to such date and, subject to the other provisions of this section, services performed for remuneration after December 31, 1977, including service in interstate commerce, by:

“a. Any officer of a corporation; or

“b. Any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee; or

“c. Any individual other than an individual who is an employee under paragraphs a or b of this subdivision (1) who performs services for remuneration for any person:

“1. As an agent-driver or commission-driver engaged in distributing meat products, bakery products, beverages (other than milk) or laundry or dry cleaning services for a principal;

“2. As a traveling or city salesman engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors or operators of hotels, restaurants or other similar establishments for merchandise for resale or supplies for use in their business operations.

“For purposes of paragraph c of this subdivision, the term “employment” shall include services described in subparagraphs 1 and 2 of paragraph c of this subdivision, performed after December 31, 1971, only if:

and 2 of paragraph c of this subdivision, performed after December 31, 1971, only if:

“(i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

“(ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

“(iii) The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are rendered.

“(2) Service performed:

“a. After December 31, 1971, but prior to January 1, 1978, by an individual in the employ of this state or any of its instrumentalities or political subdivisions or their instrumentalities (or in the employ of any of the foregoing and one or more other states or their instrumentalities or political subdivisions) for a hospital or institution of higher education located in this state; provided, however, that such service is excluded from “employment” as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(7) of that act, and is not excluded from “employment” under subsection (b) of this section; provided further, that such service in the employ of a political subdivision or any of its instrumentalities shall be deemed to be “employment” within the meaning of this chapter only if the political subdivision or its instrumentalities has elected to become an employer subject to this chapter pursuant to Section 25-4-131 for all such service in the employ of the political subdivision and its instrumentalities and has not ceased to be an employer subject hereto pursuant to Section 25-4-130 or Section 25-4-131; and

“b. After December 31, 1977, in the employ of this state or any of its instrumentalities or of any political subdivision thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any one of the foregoing and one or more other states or political subdivisions, provided, however, that such service is excluded from “employment” as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act and is not excluded from “employment” under subsection (b) of this section.

“c. For the purposes of this chapter, the term “governmental entity” in reference to this state is defined as the entirety of state government, but for the purposes of reporting, accounting or other administrative procedures such entity shall be divided into each department, agency, board, commission and any other separately

organized division or instrumentality of this state. The Comptroller of this state shall make such payments to the director as are required by the other provisions of this chapter as they pertain to the various organizational components of the state. The Comptroller is hereby authorized to require of such components such payments as are necessary to discharge his or her responsibilities and shall enforce such payments under the provisions of subsection (b) of Section 25-4-51.

“d. The term “governmental entity” in reference to any political subdivision is defined as each county and its instrumentalities and each municipality and its instrumentalities, except that each instrumentality of a political subdivision which is separately incorporated or otherwise removed from the control of the governing body of the political subdivision shall be a separate governmental entity. Instrumentalities organized and operated jointly by any combination of two or more of the aforementioned entities shall be considered as constituting a separate governmental entity. The foregoing notwithstanding, each separate public school system shall constitute a separate governmental entity.

“(3) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

“a. The service is excluded from “employment” as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act, and is not excluded from “employment” under subdivisions (8) and (21) of subsection (b) of this section; and

“b. The organization had four or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time.

“(4)a. Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision (1) of subsection (b) of this section, when:

“1. Such service is performed for an employing unit which:

“(i) During any calendar quarter in either the current or the preceding calendar year paid remuneration cash of \$20,000 or more to individuals employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1984, by an alien referred to in subparagraph 2 of this paragraph a; or

“(ii) For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the

current or the preceding calendar year, employed in agricultural labor (not taking into account service in agricultural labor performed before January 1, 1984, by an alien referred to in subparagraph 2 of this paragraph a, 10 or more individuals, regardless of whether they were employed at the same moment of time.

"2. For the purposes of this paragraph a, such service is not considered to be performed in agricultural labor if performed before January 1, 1984, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act.

"3. For the purposes of this paragraph a any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person shall be treated as an employee of such crew leader.

"(i) If such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963, or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment, which is provided by such crew leader; and

"(ii) If such individual is not an employee of any other person within the meaning of subdivision (1) of this subsection.

"4. For the purposes of this subdivision (4) in the case of any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subparagraph 3 of this paragraph a:

"(i) Such other person and not the crew leader shall be treated as the employer of such individual; and

"(ii) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader (either on his or her own behalf or on the behalf of such other person) for the service in agricultural labor performed for such other person.

"5. For the purposes of this paragraph a, the term "crew leader" shall mean an individual who:

"(i) Furnishes individuals to perform service in agricultural labor for any other persons;

"(ii) Pays (either on his or her own behalf or on behalf of such other person) the individuals so furnished by him or her for the service in agricultural labor performed by them; and

“(iii) Has not entered into a written agreement with the farm operator under which such crew leader is designated as an employee of such farm operator.

“b. Domestic service after December 31, 1977, in a private home, local college club, or local chapter of a college fraternity or sorority performed for a person, their spouse, or estate who paid cash remuneration of \$1,000 or more in any calendar quarter in the current calendar year or the preceding calendar year to individuals employed in such domestic service.

“For the purposes of this paragraph b the term “domestic service” includes all service for a person in the operation and maintenance of a private household, local college club, or local chapter of a college fraternity or sorority as distinguished from service as an employee in the pursuit of an employer’s trade, occupation, profession, enterprise, or vocation.

“(5) The term “employment” shall include the service of an individual who is a citizen of the United States, performed outside the United States after December 31, 1971, (except in Canada or in the case of the Virgin Islands after December 31, 1971, and prior to January 1 of the year following the year in which the U.S. Secretary of Labor approves the Unemployment Compensation Law of the Virgin Islands under Section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed “employment” under the provisions of subdivision (8) or (9) of this subsection (a) or the parallel provisions of another state’s law), if:

“a. The employer’s principal place of business in the United States is located in this state; or

“b. The employer has no place of business in the United States, but:

“1. The employer is an individual who is a resident of this state; or

“2. The employer is a corporation which is organized under the laws of this state; or

“3. The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or

“c. None of the criteria of paragraphs a and b of this subdivision (5) is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"d. An "American employer," for the purpose of this subsection, means a person who is:

- "1. An individual who is a resident of the United States; or
- "2. A partnership, if two-thirds or more of the partners are residents of the United States; or
- "3. A trust, if all of the trustees are residents of the United States; or
- "4. A corporation organized under the laws of the United States or of any state.

"e. For the purposes of this subdivision (5), the term "United States" includes the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and in the case of the Virgin Islands, after December 31 of the year in which the U.S. Secretary of Labor approves the Virgin Islands' Unemployment Insurance Law for the first time.

"(6) Notwithstanding subdivision (8) of this subsection (a), all service performed by an officer or a member of the crew of an American vessel on or in connection with such vessel, if the operating office from which the operations of such vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed and controlled, is within this state.

"(7) Notwithstanding any other provisions of this section, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

"(8) Subject to the other provisions of this section, the term "employment" shall include an employee's entire service, performed within or both within and without this state if:

- "a. The service is localized in this state; or
- "b. The service is not localized in any state but some of the service is performed in this state and the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled is in this state, or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this state;

"c. Service shall be deemed to be localized within a state if the service is performed entirely within such state, or the service is

performed both within and without such state, but the service performed without such state is incidental to the employee's service within the state; for example, service which is temporary or transitory in nature or consists of isolated transactions;

"d. The service shall be deemed to be localized in this state whenever such service is performed within the United States, as defined in paragraph e of subdivision (5) of subsection (a) of this section, if such service is not covered under the unemployment compensation law of any other state, as defined in Section 25-4-14, and the place from which such service is directed or controlled is in this state.

"(9) Services not covered under subdivision (8) of this subsection (a) and performed entirely without the state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this chapter if the employee performing such service is a resident of this state and the director approves the election of the employing unit for whom such services are performed. The entire service of such employee shall be deemed to be "employment" subject to this chapter.

"(10) The term "employment" includes a person's entire services if such service is deemed performed in this state by virtue of reciprocal agreements pursuant to the provisions of Section 25-4-120 and does not include any service which by virtue of such agreement is deemed performed in another state.

"(b) The term "employment" shall not include:

"(1) Except as provided in paragraph a of subdivision (4) of subsection (a) of this section, service performed by an individual in agricultural labor. For purposes of this chapter, the term "agricultural labor" means any service performed prior to January 1, 1978, which was agricultural labor as defined in this section prior to such date, and remunerated service performed after December 31, 1977, if such service was performed:

"a. On a farm, in the employ of any employing unit, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife.

"b. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm.

"c. In connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, Sec. 3; 12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

"d. In the employ of the operator of a farm, a group of operators of farms (or a cooperative organization of which such operators are members) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodities, but only if such operator or group of operators (or a cooperative organization of which such operators are members) produced more than one half of the commodity with respect to which service is performed; provided, however, the provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

"e. On a farm operated for profit if such service is not in the course of the employer's trade or business.

"As used in this subdivision, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(2) Prior to January 1, 1973, domestic services in a private home, local college club, or local chapter of a college fraternity or sorority and after December 31, 1977, if the provisions of paragraph b of subdivision (4) of subsection (a) of this section are not met.

"(3) Casual labor not in the usual course of the employer's trade or business performed after December 31, 1971, in any calendar quarter by an individual, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subdivision, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

“a. On each of some 24 days during such quarter such individual performs such service for some portion of the day; or

“b. Such individual was regularly employed (as determined under paragraph a of this subdivision) by such employing unit in the performance of such service during the preceding calendar quarter.

“(4) Service performed by an individual in the employ of his or her son, daughter or spouse, and service performed by an individual under the age of 21 in the employ of his or her father or mother.

“(5) Prior to January 1, 1978, except to the extent set forth in subdivision (2) of subsection (a) of this section, service performed in the employ of this state, or any political subdivision thereof, or of any instrumentality of this state or its political subdivisions.

“(6) Prior to January 1, 1978, except as provided in subdivision (2) of subsection (a) of this section, service performed in the employ of any other state or any political subdivisions thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more such states or political subdivisions, and any service performed in the employ of any instrumentality of any one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, immune, under the Constitution of the United States from the tax imposed by Section 3301 of the Federal Internal Revenue Code.

“(7) Service performed in the employ of the United States government or of any instrumentality wholly owned by the United States, except that if the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under this chapter, then to the extent permitted by Congress and from and after the date as of which such permission becomes effective, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed by employees for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers and employing units; provided, however, if this state should not be certified by the Secretary of Labor under Section 3304(c) of the Federal Internal Revenue Code for any year, then the payment required of such instrumentality with respect to such year shall be deemed to have been erroneously collected within the meaning of Article 3 of this chapter and shall be refunded by the director from the fund in accordance with the provisions of Section 25-4-137.

“(8) Except to the extent set forth in subdivision (3) of subsection (a) of this section, service performed in the employ of a corporation,

community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation.

“(9) Service performed after June 30, 1939, with respect to which unemployment compensation is payable under the Railroad Unemployment Insurance Act of Congress (52 Stat. 1094, as amended) and services with respect to which unemployment compensation is payable under any other unemployment compensation system established by an act of Congress; provided, however, that the director is hereby authorized and directed to enter into agreements with the proper agencies under such act or acts of Congress, which agreements shall become effective 10 days after publication thereof in the manner provided in Section 25-4-111 for general rules to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this chapter acquired rights to unemployment compensation under such act or acts of Congress, or who have, after acquiring potential rights to unemployment compensation under such act or acts of Congress, acquired rights to benefits under this chapter.

“(10) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

“(11) Service performed, in the employ of a school, college or university, if such service is performed:

“a. By a student who is enrolled and is regularly attending classes at such school, college or university; or

“b. By the spouse of such a student, if such spouse is advised at the time such spouse commences to perform such service, that:

“1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college or university; and

“2. Such employment will not be covered by any program of unemployment insurance.

“(12) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where

its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except this paragraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

“(13) Service performed in the employ of a hospital, if such service is performed by a patient of the hospital as defined in subsection (e) of this section, or service performed as a student nurse in the employ of a hospital or a nurses’ training school by an individual who is enrolled and is regularly attending classes in a nurses’ training school chartered or approved pursuant to state laws, and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law.

“(14) Service performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

“(15) Except as provided in subdivisions (2) and (3) of subsection (a) of this section, any employment or service which is excluded by the express statutory provisions of Section 3306 of the Federal Internal Revenue Code as amended.

“(16) Service performed by an officer or member of the crew of a vessel which is not an American vessel. The term “American vessel” means any vessel documented or numbered under the law of the United States, and includes any vessel which is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

“(17) Service performed by an individual in (or as an officer or member of the crew of a vessel while it is engaged in) the catching, taking, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life (including service performed by any such individual as an ordinary incident to any such activity), except:

“a. Service performed in connection with the catching or taking of salmon or halibut for commercial purposes; and

“b. Service performed on or in connection with a vessel of more than 10 net tons (determined in the manner provided for determining

the register tonnage of merchant vessels under the laws of the United States).

“(18) Service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative).

“(19) Service performed in the employ of an instrumentality wholly owned by a foreign government if:

“a. The service is of a character similar to that performed in foreign countries by employees of the United States government or of an instrumentality thereof; and

“b. The director finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and of instrumentalities thereof.

“(20) Except to the extent set forth in subdivision (3) of subsection (a) of this section, service performed in any calendar quarter in the employ of any organization exempt from income tax under Section 501(a) of the Federal Internal Revenue Code (other than organizations described in Section 401(a)) or under Section 521 of such Code, if the remuneration for such service is less than \$50.

“(21) Services performed for any governmental entity, institution or organization described in subdivisions (2) and (3) of subsection (a) of this section:

“a. In the employ of:

“1. A church or convention or association of churches; or

“2. An organization that is operated primarily for religious purposes and which is either operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

“b. By a duly ordained, commissioned or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order; or

“c. Except as provided in subdivision (7) of subsection (a) of Section 25-4-8:

“1. Prior to January 1, 1978, in the employ of a school which is not an institution of higher education;

“2. After December 31, 1977, in the employ of a governmental entity referred to in paragraph b of subdivision (2) of subsection (a)

of this section, if such service is performed by an individual in the exercise of duties:

“(i) As an elected official;

“(ii) As a member of a legislative body, or a member of the judiciary of this state or any of its political subdivisions;

“(iii) As a member of the State National Guard or Air National Guard;

“(iv) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood or similar emergency (this exclusion does not apply to permanent employees whose usual responsibilities include emergency situations);

“(v) In a position which, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week; or

“d. In a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or

“e. As part of an unemployment work relief or work training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or

“f. For a hospital in a state prison or other state correctional institution prior to January 1, 1978, by an inmate of the prison or correctional institution and, after December 31, 1977, by an inmate of a custodial or penal institution.

“(22) Services performed by an individual as a qualified real estate agent. For the purposes of this chapter the term “qualified real estate agent” shall mean an individual who is a sales person if:

“a. Such individual is a licensed real estate agent; and

“b. Substantially all of the remuneration for services performed as a real estate agent (whether or not paid in cash) is directly related to sales or other output (including the performance of services), rather than the number of hours worked, and

“c. The services performed by the individual are performed pursuant to a written contract between such individual and the

person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes.

“(23) Services performed by an individual as a direct seller. For the purposes of this chapter the term “direct seller” shall mean any individual who:

“a. Is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a:

“1. Buy-sell basis, or

“2. Deposit-commission basis, or

“3. Any similar basis which the U.S. Secretary of the Treasury prescribes by regulations, for resale (by the buyer or any other individual), in the home or otherwise than in a permanent retail establishment; or

“b. Is engaged in the trade or business of selling (or soliciting the sale of) consumer products to a consumer in the home or otherwise than in a permanent retail establishment, and

“c. Substantially all of the remuneration for the services performed by such individual as a direct seller (whether or not paid in cash) is directly related to sales or output (including the performance of services) rather than to the number of hours worked, and

“d. The services performed by such individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes.

“(24) Services performed by an individual as a product demonstrator. For the purposes of this chapter, the term “product demonstrator” shall mean any individual who satisfies both of the following requirements:

“a. Is engaged in the trade or business of demonstrating, exhibiting, or soliciting the purchase of food, food-related products offered for sale, or other consumer products offered for sale to any buyer on the premises of a grocery store, dry good store, or similar retail establishment, or trade show;

“b. Who performs those services pursuant to a written contract between the individual and a person whose principal business is providing demonstrators to third parties for such purposes and the contract provides that the individual will not be treated as an employee with respect to the services for federal tax purposes.

“(25) Services performed by an individual committed to a penal institution.

“(c) “Institution of higher education,” for the purposes of this chapter, means an educational institution which:

“(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

“(2) Is legally authorized in this state to provide a program of education beyond high school;

“(3) Provides an educational program for which it awards a bachelor’s or higher degree, or provides a program which is acceptable for full credit toward such a degree, or a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation.

“(d) For the purposes of this chapter the term “educational institution” means an educational institution (including an institution of higher education as defined in subsection (c) of this section) in which:

“(1) Participants, trainees or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s).

“(2) It is approved, licensed or issued a permit to operate as a school by the State Department of Education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school.

“(3) The courses of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation, as opposed to study or training in the social graces or skills or whose primary purpose is to provide baby-sitting or day care services although some learning activities may be included.

“In any particular case, the question of whether or not an institution is an educational institution (other than an institution of higher education) within the meaning of the criteria described above will depend on what that particular institution actually does.

“(e) “Hospital” means an institution which has been licensed, certified or approved by the State Board of Health or the State Department of Mental Health and Mental Retardation as a hospital or a similar institution operated by the state or any of its political subdivisions or by an instrumentality of either of the foregoing.

“(f) If the services performed during one half or more of any pay period by an employee for the employing unit employing him or her constitute employment, all of the services of such employee for such period shall be deemed to be employment, but if the services performed during more than one half of any such pay period by an employee for the employing unit employing him or her do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. As used in this subsection the term “pay period” means a period (of not more than 31 consecutive days) for which a payment or remuneration is ordinarily made to the employee by the employing unit employing the employee.

“§25-4-16.

“(a) Prior to January 1, 1983, “wages,” as used in this chapter, shall mean such remuneration as was defined in this section prior to such date.

“(b) On and after January 1, 1983, “wages,” as used in this chapter, shall mean every form of remuneration paid or received for personal services, including the cash value of any remuneration paid in any medium other than cash. The reasonable cash value of remuneration paid in any medium other than cash shall be determined in accordance with rules prescribed by the director; except that effective on May 28, 1980, and for the purposes of reporting and computing the amount of contributions due, back pay awarded as the result of an agreement, arbitration or order of a court of competent jurisdiction on a retroactive basis shall be considered “wages” during the calendar quarter in which such retroactive payments are made. The term “wages,” however, shall not include:

“(1) That part of remuneration, which after remuneration equal to \$8,000.00 (or such greater amount as may be or become subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund) has been paid in a calendar year to an individual by an employer or his predecessor employer or by a combination of both the employer and his predecessor employer with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year except with respect to subdivisions (1) and (2) of subsection (a), subdivision (4) of subsection (b) and subsection (c) of Section 25-4-54 and Sections 25-4-71 through 25-4-75. For the purpose of this subdivision (1), the term “employment” shall include service constituting employment under any unemployment compensation law of another state or of this state.

“(2) The amount of any payments (including any amount paid by an employer for insurance or annuities, or into a fund to provide

for any such payment) made to, or on behalf of an employee or any of his dependents under a plan or system established by an employer which makes provisions for his employees generally (or for his employees generally and their dependents) or for a class or classes of his employees (or for a class or classes of his employees and their dependents), on account of:

“a. Retirement; or

“b. Sickness or accident disability; or

“c. Medical or hospitalization expenses in connection with sickness or accident disability; or

“d. Death; or

“e. Effective January 1, 1996, sick pay wages made by an employer to, or on behalf of, an employee after the expiration of six calendar months following the last calendar month in which the employee worked for such employer.

“(3) Any payment made to an employee (including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment) on account of retirement.

“(4) Any payment made by an employer to, or on behalf of, any employee or his beneficiary:

“a. From or to a trust which meets the requirements of Section 401(k) of the federal Internal Revenue Code and which is exempt from tax under Section 501(a) of the federal Internal Revenue Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust; or

“b. Under or to an annuity plan which, at the time of such payment, meets the requirements of Section 401(a) (3), (4), (5) and (6) of the federal Internal Revenue Code.

“(5) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Article 3 of this chapter, or of the tax imposed upon an employee by Section 3101 of the federal Internal Revenue Code, as amended, with respect only to remuneration paid to an employee for domestic service in a private home or for agricultural labor.

“(6) Remuneration paid in any medium other than cash to an employee for agricultural or domestic services or for services not in the course of the employer's trade or business.

“(7) Any payment (other than vacation or sick pay) made to an employee after the month in which he attains the age of 65, if he

did not work for the employer in the period for which such payment is made.

“(8) Dismissal payments which the employer is not legally required to make.

“(9) Payments made into a fund by an employer to provide for supplemental unemployment benefits under a plan established to provide such benefits to employees in general, or a group or class of employees, of such employer.

“(10) Payments made, or benefits furnished, to or for the benefit of an employee if, at the time of the payment or the furnishing of the benefit, it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 127 of the Internal Revenue Code.

“§25-4-54.

“(a) Determination of contribution rates.

“(1) For the 12-month period beginning on January 1 of each year which begins December 31, 1996, any employer whose experience rating account has been subject to benefit charges throughout at least the fiscal year, as defined in Section 25-4-4, immediately preceding such January 1, shall have his rate determined by the Unemployment Compensation Fund's liability for benefits paid to his employees, modified by the fund's balance as of the most recent June 30. The employment record of an organization which has been making payments in lieu of contributions but which elects to change to payment of contributions shall be deemed to have been chargeable with benefits throughout the period (not to exceed three fiscal years) with respect to which it was making payments in lieu of contributions and its benefit charges and payrolls for such period shall be used in computing its benefit ratio pursuant to subsection (d) of this section.

“(2) For the 12-month period beginning on January 1 of each calendar year which begins before January 1, 1997, the rates of contribution shall be determined as was prescribed by this section prior to said January 1, 1997.

“(b) Determination of individual benefit charges.

“(1) An individual's “benefit charges” shall be as follows:

“a. For each week benefits are paid, an individual's “benefit charges” shall be equal to the amount of benefits he was paid for such week.

“b. For each week extended benefits pursuant to Section 25-4-75 are paid to an individual, the “benefit charges” shall be

equal to the state's share of such benefits paid to him for such weeks; provided, however, where an individual's "benefit charges" for extended benefits are attributable to service in the employ of any governmental entity, as defined in paragraph (a)(2)b of Section 25-4-10, the individual's "benefit charges" shall be an amount equal to the benefits he was paid for such week.

"(2) Any benefits paid to an individual based on wages paid to an employee during his base period for part-time employment by an employer who continues to give the employee employment to the same extent while he is receiving benefits as he did during his base period shall not be determined to be the individual's benefit charges. The employer shall establish the continuation of work to the satisfaction of the director by submitting such information as the director may require within the time required by other provisions of this chapter after the date of notification or mailing of notice by the director that the employee has first filed a claim for benefits.

"(3) If benefits paid to an individual are based on wages paid by two or more employers, the amount of the individual's benefit charges applicable to any one employer shall be an amount which bears the same ratio to the total benefit charges as the total base period wages paid by such employer to the individual and used for the payment of benefits bears to the total base period wages paid to the individual by all his base period employers and used for the payment of benefits.

"(4) When, in the determination of any individual's benefits, wages have been properly included once for one benefit year or for one base period, such wages shall not thereafter be included again in the computation of his benefits for any other benefit year or in his wages for any other base period respectively.

"(c) Determination of employer benefit charges.

"(1) An employer's benefit charges for each and every fiscal year shall be the total of the regular benefits and the state's share of the extended benefits paid during such fiscal year to all of his employees or former employees which are attributable to wages paid by such employer to his employees or former employees; except as is provided by paragraph a of subdivision (a)(5) of Section 25-4-51 for governmental entities.

"(2) The director shall analyze the benefit payments in each fiscal year and determine each employer's benefit charges for each fiscal year.

"(3) The director shall, after the close of each calendar quarter, furnish each employer with a statement of the benefits paid to his workers, or former workers, which became his benefit charges in that calendar quarter, together with the names of such workers, or

former workers, and such statement, in the absence of an application for a revision thereof within 30 days of the mailing of such statement to the employer's last known address, shall be conclusive and final upon the employer for all purposes and in all proceedings whatsoever. Such application for revision shall be in the form and manner prescribed by regulation of the director. Upon receipt of, within the time allowed, an application for revision of such statement, the director shall allow such application in whole or in part, or shall deny such application and shall serve notice upon the employer of such decision. Such decision of the director shall be final and conclusive on the employer at the expiration of 30 days from the date of service of such notice, unless the employer shall within the said 30-day period file with the director a written protest and a petition for hearing, specifying his objections thereto. Upon receipt of such petition the director shall fix a time and place for a hearing and shall notify the employer thereof. At any hearing held as herein provided, the decision of the director shall be prima facie correct, and the burden shall be upon the protesting employer to prove it is incorrect. No employer shall have the right to object to the benefit charges with respect to any worker as shown on such statement, unless he shall first show that such charges arose as a result of benefits paid to such worker in accordance with a determination, or a redetermination, to which such employer was a party entitled to notice thereof, as provided by Article 5 of this chapter, and shall further show that he was not notified of such determination or redetermination in accordance with the requirements of said Article 5 of this chapter. Nothing herein contained shall affect the right of any employer at such hearing to object to such statement of benefit charges on the ground that it is incorrect by reason of a clerical error made by the director or any of his employees. The employer shall be promptly notified by mail of the director's decision. Such decision shall be final and conclusive unless an appeal is taken therefrom in the manner and within the time prescribed in subsection (h) of this section.

"(4) Nothing contained in subdivision (3) of this subsection (c) shall be construed as limiting or affecting in any manner the right and authority of the director to remove benefit charges from any employer's account upon discovering or being aware of any such employer's workers or former workers having drawn benefits by reason of false representation of their earnings while filing claims for benefits nor to make any corrections resulting from any adjustment to benefits paid to the individual.

"(5) Any Alabama unemployment compensation benefits paid to any claimant under the following conditions shall not be charged to the account of a contributory base period employer(s)

for the state fiscal year ending June 30, 1996, and each fiscal year thereafter, if:

“a. The benefits are paid for unemployment due directly to a major natural disaster, and

“b. The President has declared the event a disaster pursuant to the Disaster Relief Act of 1970, 42 USC § 4401, et seq., as amended, and

“c. The benefits are paid from the Alabama U.I. Trust Fund to claimants who would have been eligible for disaster unemployment assistance under this act, if they have not first received Alabama unemployment insurance benefits with respect to their unemployment.

“(d) Determination of employer benefit ratio. – Effective January 1, 1997, and each year thereafter, the benefit ratio of each employer who qualifies for a rate determination under subdivision (a)(1) of this section and has been chargeable with benefits throughout the three most recent preceding fiscal years shall be a percentage obtained by dividing the total of his benefit charges for such three-year period by that part of his total taxable payroll for the same three-year period with respect to which contributions have been paid on or before July 31, next following such period, and the benefit ratio of each employer who qualifies for a rate determination under subdivision (a)(1) of this section, but who has not been subject to this chapter for a period of time sufficient to have been chargeable with benefits throughout the three most recent preceding fiscal years, shall be a percentage obtained by dividing the total of his benefit charges for the period throughout which he has been chargeable, such period to be not less than the most recent preceding fiscal year by that part of his total taxable payroll for the same period with respect to which contributions have been paid on or before July 31 next following such period. The employers benefit ratio shall be computed to the fourth decimal and be used in determining each employer's contribution rate as prescribed in subsection (a) of this section for the next calendar year; except that:

“For tax rate year beginning January 1, 1991, the employer's benefit ratio shall be determined by the employer's actual benefit charges to his account for the fiscal year ending September 30, 1990, and for fiscal years ending September 30, 1988, and September 30, 1989, the employer's benefit charges shall be determined from data accumulated by the director during such years relative to benefit wage charges and converted to benefit charges, in such manner as the director shall prescribe.

"Penalty rate. – Effective January 1, 1996, and each calendar year through 1998, employers shall be assigned a penalty rate equal to the maximum rate of the prevailing tax rate schedule for that year and the shared cost assessment for that year if both of the following occur:

"(1) The employer is eligible for an experience rate under Section 25-4-54.

"(2) On October 1, subsequent to each fiscal year, the employer is delinquent in the payment of monies or filing of quarterly contribution reports and wage reports, or both, for any calendar quarters ending on or prior to June 30, 1996, and each fiscal year thereafter.

"Penalty rate. – Effective January 1, 1999, and each calendar year thereafter, employers shall be assigned a penalty rate equal to the maximum rate of the prevailing tax rate schedule for that year and the shared cost assessment for that year if all of the following occur:

"(1) The employer is eligible for an experience rate under Section 25-4-54.

"(2) The employer is delinquent in the payment of taxes or assessments, or both, in excess of twenty dollars (\$20) or in the filing of quarterly contribution reports or wage reports, or both, for any quarter prior to the four quarters of the immediately preceding calendar year.

"(3) The employer has received adequate written notices of the delinquency, one of which shall be by certified U. S. Mail, return receipt requested.

"(e) Shared costs.

"(1) For the purposes of this subsection (e) and for the determination of an employer's rate of contribution pursuant to subsection (f), "shared" or "socialized" cost for each fiscal year is defined to be:

"a. Benefit charges which cannot be effectively assigned to an individual employer's experience rating account during such fiscal year because of the employer becoming inactive (in accordance with Section 25-4-130); and

"b. The total amount of the difference between the benefit charges to all employers during the fiscal year who are assigned the maximum rate of contribution under any one of the rate schedules for the calendar year next following such fiscal year and the total amount of contributions received from all such maximum rated employers during the same fiscal year; and

"c. Credits granted employers during such fiscal year because of the reason for separation (as provided in Section 25-4-78), continued

part-time work, as provided by subdivision (b)(2) of this section, and relief from charges granted an employer under the provisions of subdivision (c)(4) of this section; and

“d. Benefit overpayments which have been declared uncollectible or have been waived by the director during the fiscal year pursuant to the applicable provisions of this chapter; and

“e. Contributions due from employers but not paid and which have been, during such fiscal year, declared uncollectible by the bankruptcy courts or official action by the director; and

“f. Cost resulting from the relief of charges for contributory employers under Section 25-4-54(c)(5) will be included in shared cost as defined in this section.

“(2) The total of the amounts determined under the provisions of subdivision (1) above shall be the statewide total shared cost for any fiscal year.

“(3) Net shared costs for any fiscal year shall be the statewide total of shared costs for that fiscal year reduced (but not below zero) by the amount of:

“a. Interest received by the fund from the U. S. Treasury during such fiscal year; and

“b. The total amount of the difference between the contributions received from all employers during such fiscal year who are assigned the minimum rate of contributions under any one of the rate schedules for the calendar year next following such fiscal year and the total of all benefit charges made to all such minimum rated employers during the same fiscal year.

“(4) To determine the “shared cost ratio” for any fiscal year, the net shared cost for such fiscal year shall be divided by the statewide total of taxable wages for the same fiscal year which have been reported by all contributory employers and upon which contributions have been timely paid (reduced by the total of the taxable wages reported and timely paid on by any employer or employers for the same fiscal year, who by the provisions of subdivision (5) of this subsection (e) are relieved of the shared cost assessment). The resulting quotient adjusted to the nearest multiple of one-thousandth shall be the “shared cost ratio” applicable for assessment to all contributory employers for the next following calendar year.

“(5)a. Except as is hereinafter provided, the shared cost ratio as computed under the above provision for each fiscal year shall, for the next calendar year, be assessed each employer eligible for a rate determination under the provision of subdivision (a) (1) of this section, in addition to the rate of contributions determined by the tables contained in subsection (f) of this section.

"1. Any employer whose rate of contribution has been determined to be the minimum rate allowed under Schedule A for a calendar year, shall be relieved of any shared cost assessment during that calendar year;

"2. Any employer whose rate of contribution has been determined to be the minimum rate allowed under Schedule B for a calendar year and whose experience rating account has not been charged with any benefits during the three immediately preceding fiscal years, shall be relieved of any shared cost assessment for that calendar year;

"3. No relief shall be granted to any employer for any portion of the shared cost assessment for a calendar year when either Schedule C or D is in effect.

"b. The assessment for shared costs shall become due and payable at the same time and in the same manner as contributions.

"c. The authority of the director to enforce collection of any shared cost assessment shall be the same as is provided in this chapter for the enforcement of the collections of contributions.

"(f) Notice of contribution rate, etc.; maximum rate. -The contribution rates (expressed as a percentage of taxable wages) for each employer, as provided in subsection (a) of this section, shall be determined by the director and the director shall notify each employer of his benefit ratio and his contribution rate within 30 days after the effective date of such rate. Such employer contribution rate for the tax rate years beginning January 1, 1991, shall be determined from the appropriate rate schedule prescribed for that tax rate year by the provisions of subsection (g) of this section and shall be the rate which appears on the same horizontal line on which is found the employer's benefit ratio.

TAX RATE
TABLE

LINE NO.	IF THE EMPLOYER'S BENEFIT RATIO IS:	EMPLOYER TAX RATE SCHEDULE:			
		A	B	C	D
1	0.00-0.39	0.20	0.35	0.50	0.65
2	0.40-0.59	0.35	0.50	0.65	0.80
3	0.60-0.79	0.50	0.70	0.90	1.00
4	0.80-0.99	0.70	0.90	1.10	1.20

5	1.00-1.19	0.85	1.10	1.30	1.40
6	1.20-1.39	1.00	1.30	1.55	1.65
7	1.40-1.59	1.15	1.50	1.75	1.90
8	1.60-1.79	1.30	1.70	1.95	2.15
9	1.80-1.99	1.45	1.90	2.15	2.40
10	2.00-2.19	1.60	2.10	2.40	2.65
11	2.20-2.39	1.75	2.30	2.60	2.85
12	2.40-2.59	1.90	2.50	2.80	3.10
13	2.60-2.79	2.05	2.70	3.05	3.35
14	2.80-2.99	2.20	2.90	3.25	3.60
15	3.00-3.19	2.35	3.10	3.50	3.85
16	3.20-3.59	2.50	3.40	3.80	4.20
17	3.60-3.99	2.80	3.80	4.25	4.70
18	4.00-4.39	3.10	4.20	4.70	5.20
19	4.40-4.79	3.40	4.60	5.10	5.70
20	4.80-5.19	3.70	5.00	5.50	6.20
21	5.20-5.59	4.00	5.40	6.00	6.70
22	5.60-5.99	4.30	5.40	6.00	6.70
23	6.00-6.39	4.60	5.40	6.10	6.80
24	6.40-6.79	4.90	5.40	6.10	6.80
25	6.80-7.19	5.20	5.40	6.10	6.80
26	7.20 or over	5.40	5.40	6.10	6.80

“The provisions of this subsection (f) to the contrary notwithstanding, the rates of contribution shall, after having been determined as herein prescribed, be adjusted as follows for calendar quarters beginning after March 31, 1992 and ending March 31, 2002:

If the rate of contribution specified by the Tax Rate Table contained in this section is:	The employer's contribution rate shall be
0.20	0.14
0.35	0.29
0.50	0.44
0.65	0.59
0.70	0.64
0.80	0.74
0.85	0.79
0.90	0.84
1.00	0.94
1.10	1.04

1.15	1.09
1.20	1.14
1.30	1.24
1.40	1.34
1.45	1.39
1.50	1.44
1.55	1.49
1.60	1.54
1.65	1.59
1.70	1.64
1.75	1.69
1.90	1.84
1.95	1.89
2.05	1.99
2.10	2.04
2.15	2.09
2.20	2.14
2.30	2.24
2.35	2.29
2.40	2.34
2.50	2.44
2.60	2.54
2.65	2.59
2.70	2.64
2.80	2.74
2.85	2.79
2.90	2.84
3.05	2.99
3.10	3.04
3.25	3.19
3.35	3.29
3.40	3.34
3.50	3.44
3.60	3.54
3.70	3.64
3.80	3.74
3.85	3.79
4.00	3.94
4.20	4.14
4.25	4.19
4.30	4.24

4.60	4.54
4.70	4.64
4.90	4.84
5.00	4.94
5.10	5.04
5.20	5.14
5.40	5.40
5.50	5.44
5.70	5.64
6.00	5.94
6.10	6.04
6.20	6.14
6.70	6.64
6.80	6.74

"The adjustment in rates of contributions as are herein provided shall apply only to those employers who are required to pay contributions by the provisions of Section 25-4-51 and those non-profit organizations, hospitals, educational institutions, agencies of the State of Alabama and political subdivisions of the state who have, under the option permitted by Section 25-4-51, for that calendar year elected to pay contributions. The adjustment shall not apply to any employer who, because of insufficient unemployment experience, has not become eligible to have his rate of contribution determined by the method prescribed under this subsection (f); whose rate of contribution is determined to be 5.4%, or is above 5.4% and by the application of the adjustment would become a rate less than 5.4%; and all employers who being eligible for such option have elected the option to make payments in lieu of contributions.

"(g) Determination of contribution rate schedule. – Contribution rates for each employer, determined pursuant to subsection (f) of this section, shall nevertheless be subject to the contribution rate schedule as is hereinafter provided.

"(1) The "benefits payroll ratio" of the state for each fiscal year shall be determined by dividing the total of benefits paid, including the state's portion of benefits paid under any extended benefit program, from the unemployment compensation fund within the preceding fiscal year, less any benefits paid for which payments in lieu of contributions have been paid or are currently due to be paid, by the statewide total payrolls of all employers upon which contributions on the taxable portion thereof have been paid during the same fiscal year, and by adjusting the quotient to the nearest multiple of one-thousandth.

"(2) The desired level of unemployment compensation fund for each fiscal year shall be one and four-tenths times the amount

determined by multiplying the highest statewide total of payrolls of all employers upon which contributions on the taxable portion thereof have been paid during any one of the three most recent preceding fiscal years by the highest benefits payroll ratio for any one of the 10 most recent preceding fiscal years.

“(3) The director shall, on or before the December 1 next following the end of each fiscal year, declare effective for the 12-month period beginning with January 1 of the immediately succeeding calendar year, the desired level of the fund and the schedule to be in effect for that 12-month period. The contribution rate for each employer for the next calendar year shall be determined by the director as provided in subsection (f) of this section on the basis of each employer’s benefit ratio as determined under the provisions of subsection (d) of this section; and whenever at the end of any fiscal year, the fund balance is:

“a. One hundred twenty-five percent or more of the desired level computed for the fiscal year, contribution rates shall be determined under Schedule A;

“b. Equal to the desired level but is less than 125% thereof, contribution rates shall be determined under Schedule B.

“c. Less than the desired level but is at least 70% thereof, contribution rates shall be determined under Schedule C.

“d. Less than 70 percent of the desired level, contribution rates shall be determined under Schedule D.

“(4) Any amount credited to this state’s account under Section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund, shall be included in the trust fund balance in determining whether or not such fund is greater or less than the desired level of the fund for a fiscal year; except, that any amount appropriated and withdrawn which will not be repaid to the fund shall not be included in such balances.

“(5) The director shall notify each employer of such declaration and of his benefit ratio and his contribution rate within 30 days after each such January 1. This subdivision (5) shall not apply to employers who, in lieu of contributions, reimburse the fund for benefits paid.

“(h) Review of contribution rate, etc. - Any employer may apply to the director for and shall be entitled to a review as to the determination of his benefit ratio and his contribution rate as fixed by his benefit ratio, provided such application is filed within 30 days of the date of the mailing by the director to the employer of the notice of such determination. Pending such review, such employer shall make

all contribution payments otherwise required by this chapter at contribution rates fixed by the determination sought to be reviewed and resulting overpayments or underpayments of contributions by the employer shall, upon any redetermination, be adjusted or refunded pursuant to Section 25-4-137. Any employer may within 30 days after the date of mailing by the director to such employer of notice of the ruling of the director upon such application for review appeal such ruling to the circuit court of any county wherein the employer is engaged in doing business, upon such terms and upon giving such security for costs as the court may upon application prescribe. Trial in that court shall be de novo with respect to his benefit ratio.

“(i) Contribution rate, etc., of successor employer. -For the purpose of this section, an employer’s benefit charges and that part of his taxable payroll with respect to which contributions have been paid, shall be deemed benefit charges and taxable payrolls of a successor employer and shall be taken into account in determining the contribution rate of such successor employer as provided in subsection (f) of this section, if such successor succeeds the employer in any of the manners set out in paragraph (a)(4)a of Section 25-4-8; provided, that an employer subject to this chapter who becomes such in any of the manners set out in paragraph (a)(4)b of Section 25-4-8 may have that portion of his predecessor’s benefit charges and that part of his predecessor’s total taxable payroll, with respect to which contributions have been paid which correspond to the segregable portion of the business assets and payroll thereof, acquired from his predecessor, deemed to be his benefit charges and his payroll and such shall be taken into account in determining his rates, as provided in subsection (f) of this section; provided, that he:

“(1) Makes written application within 90 calendar days from the date of such acquisition; and

“(2) Furnishes to the director within 120 calendar days from the date of such acquisition a transcript of such total and taxable payrolls which correspond to the segregable portion acquired from his predecessor; provided further that in the event that within the intervening 120 days a notice of his rate of contribution has been mailed to the partial successor, the 30-day finality provision set forth in subsection (h) of this section shall not prevail but, instead, be effective with respect to the subsequent notice computed on the basis of the benefit ratio and taxable payrolls of the acquired segregable portion.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 21, 1998

Time: 2:46 P.M.

Act No. 98-365

S. 332 – Senator Langford

AN ACT

To provide that judges of probate may retire with 24 years of service, regardless of age under certain conditions; to amend Section 12-18-84, Code of Alabama 1975; and to further provide for the calculation of benefits; to provide that any judge of probate retired under the Judicial Retirement Fund shall be entitled to receive all cost-of-living adjustments provided for retired state employees after the effective date of this act and to provide for financing the adjustments from the investment income of the Judicial Retirement Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Notwithstanding any law to the contrary, any judge of probate who has served for not less than 24 years on any one or more of such courts or has 24 years of creditable service in the Judicial Retirement Fund shall be eligible to retire under Chapter 18, Title 12, Code of Alabama 1975, regardless of age, if upon electing to retire with less than 25 years of service, prior to his or her date of retirement he or she pays to the Secretary Treasury of the Judicial Retirement Fund a lump sum in an amount equal to the annual employer and employee contributions necessary to purchase one year of creditable service in the fund based on the final annual state salary earned by the judge during his or her most recent fiscal year of active judicial service.

Section 2. Section 12-18-84, Code of Alabama 1975, is amended to read as follows:

“§12-18-84.

“Any probate judge serving on December 27, 1973, who elects to become a member of the retirement fund hereby established, and any probate judge assuming such office after October 1, 1976, may elect to be retired pursuant to this article if he or she qualifies under any one of the following:

“(1) Has served as much as five years as a probate judge and has become permanently, physically or mentally unable to carry out his or her duties on a full-time basis, proof of such disability being made by certificate of three reputable physicians;

“(2) Has served as much as 12 years as a probate judge and has reached or passed the age of 65 years;

“(3) Has served as much as 15 years as probate judge and is not less than 62 years of age or has served as such for more than 15 years and has attained age 62, less one year for each year of service in excess of 15; provided, that such probate judge shall have attained not less than 60 years of age;

“(4) Has served continuously as much as 10 years as probate judge and is not less than 70 years of age; or

“(5) Has served for not less than 18 years or three full terms or a time equal to three full terms as a probate judge and is not less than 60 years of age; or

“(6) Has served for not less than 24 years or four full terms or a time equal to four full terms as a probate judge, regardless of age, if upon electing to retire with less than 25 years of service, prior to his or her date of retirement he or she pays to the Secretary Treasury of the Judicial Retirement Fund a lump sum in an amount equal to the annual employer and employee contributions necessary to purchase one year of creditable service in the fund based on the final annual state salary earned by the judge during his or her most recent fiscal year of active judicial service.”

Section 3. (a) Any retired judge of probate receiving benefits from the Judicial Retirement Fund shall be entitled to receive any cost-of-living adjustment provided by law for state employees who are retired under the State Employees’ Retirement System after the effective date of this act.

(b) The cost-of-living adjustments provided for retired judges of probate under subsection (a) shall be financed from time to time, from the investment income of the Judicial Retirement Fund.

Section 4. The provisions of this act are cumulative and supplemental to other statutes or laws relating to judicial retirement and shall not be construed to repeal any law or part of law not directly in conflict herewith. Nothing herein shall be construed to eliminate, reduce, or modify any entitlement or benefit to which a justice or judge is now eligible or would be eligible under the retirement laws existing and in effect before the effective date of this act.

Section 5. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 21, 1998

Time: 2:47 P.M.

Act No. 98-366

S. 446 – Senator Waggoner

AN ACT

To amend Sections 34-24-255 and 34-24-272, Code of Alabama 1975, and to repeal Section 34-24-271, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 34-24-255 and 34-24-272, Code of Alabama 1975, are amended to read as follows:

“§34-24-255.

“(a) Every person desiring to commence the practice of podiatry shall apply to the board and shall pay an application fee as established by the board. The applicant shall thereafter take and pass the standard examination provided in this article and fulfill the other requirements as herein provided. The applicant shall be 19 years of age or over, or the age as the board may by rule determine, of good moral character, shall be a graduate of a college of podiatry recognized by the American Podiatric Medical Association, shall have completed a podiatric residency approved by the American Podiatric Medical Association or by the State Board of Podiatry under its rules and regulations, shall have successfully passed all parts of the examination given by the National Board of Podiatric Examiners and shall be able to pass the standard examination prescribed by the State Board of Podiatry. The standard examination shall consist of tests in practical, theoretical, and physiological podiatry, in the anatomy and physiology of the human foot, and in pathology as applied to podiatry. In addition, the standard examination shall test the knowledge of the applicant of the Podiatry Practice Act and the rules and regulations of the board. The standard examination shall not be out of keeping with established teachings and adopted textbooks of recognized schools of podiatry. If the applicant satisfactorily passes the examination provided for he or she shall be issued a license to practice podiatry.

“(b) The board may establish and collect an application fee and an examination fee from applicants for licensure, and a nonrefundable reexamination fee for a second or subsequent examination.

“§34-24-272.

“Any person who is a legal, ethical, and competent practitioner of podiatry in this state, who has been duly examined and licensed by the state board of podiatry, and of good moral character and known to the board as such, who shall desire to change his or her residence to another state or territory, or foreign country, shall, upon application to the board and the payment of a fee of fifty dollars (\$50), receive a special certificate over the signature of the president and secretary-treasurer of said board and bearing its seal which shall give the date upon which he or she was registered and licensed.”

Section 2. Section 34-24-271, Code of Alabama 1975, is repealed.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 21, 1998

Time: 2:48 P.M.

Act No. 98-367

S. 503 – Senator Steele

AN ACT

To amend Section 15-22-2 of the Code of Alabama 1975, relating to parole and probation fees; to increase the supervision and rehabilitation fee required of a person who is granted parole or probation.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 15-22-2 of the Code of Alabama 1975, is amended to read as follows:

“§15-22-2.

(a) Any person who is placed on parole by the Board of Pardons and Paroles or any person who is granted probation by a court of competent jurisdiction and who is subject to supervision by the Board of Pardons and Paroles, and who has an income shall be required to contribute thirty dollars (\$30) per month toward the cost of his or her supervision and rehabilitation beginning 30 days from the date he or she has an income. The sum shall be deducted by the parolee or probationer from his or her monthly income and delivered to the Board of Pardons and Paroles on or before the fifth day of each month for deposit in the General Fund of the State Treasury on or before the tenth day of each month. By prior agreement between an employer and employee, an employer may deduct thirty dollars (\$30) from the monthly net earned income of the parolee or probationer and remit the amount to the Board of Pardons and Paroles by the fifth day of each month. The responsibility of assuring the contribution shall remain that of the parolee or probationer. Exemptions from payments required by this section may be granted for undue hardship on a case by case basis by the sentencing court in probation and the Board of Pardons and Paroles in parole cases.

In the event of over two months arrearage or delinquency in making a contribution, the arrearage or delinquency shall constitute sufficient ground for revocation of the parole or probation of the person in arrears.

There shall be established a probationer's upkeep fund. All moneys received pursuant to this section since August 24, 1976, shall be transferred by the State Treasury into the fund for the credit and use of the Board of Pardons and Paroles and all sums collected pursuant thereto after May 5, 1977, shall be deposited into the treasury to the credit of the fund. All funds shall be withdrawn or expended only for the purposes stated in this section. The funds are hereby appropriated to the Board of Pardons and Paroles for the purposes stated in this section.

There is hereby appropriated for the current fiscal year \$50,000.00 from said fund to the Board of Pardons and Paroles for the purposes of supervising parolees and probationers who are gainfully employed.

(b) The amount of contribution of each parolee and probationer of his or her monthly net earned income shall be excluded from the taxable income of the person for the purpose of determining the state income tax liability of the person.

(c) A parolee or probationer authorized to work at paid employment in the community under this section shall comply with all rules and regulations promulgated by the Board of Pardons and Paroles.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 21, 1998

Time: 2:49 P.M.

Act No. 98-368

S. 108 – Senator Roberts

AN ACT

To amend Section 11-81-31 of the Code of Alabama 1975, to ratify certain elections by counties or municipalities for the purpose of approving the issuance of bonds under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 11-81-31 of the Code of Alabama 1975, is amended to read as follows:

“§11-81-31.

“Every election heretofore held in any municipality or in any county for the purpose of voting upon and deciding the question of whether bonds of the municipality or county, as the case may be, shall be issued, at which election a majority of the votes cast were in favor of the issuance of the bonds, but which election was irregular by reason of failure prior to the holding of the election to give notice thereof in a newspaper or by posting in the manner or for the time required by any statute applicable to the election, or because of the failure to comply with any other statutory requirement applicable to the election, or because of any other irregularity with respect to the holding of the election or canvassing or recording the results thereof, shall be and is ratified and confirmed and given effect in all respects as if all provisions of law relating to the election had been duly and legally complied with, and bonds may be issued pursuant to the authorization purported to

have been granted at the election, and any bonds heretofore or hereafter issued pursuant to the purported authorization shall be valid. This section shall not apply to any election which, prior to the enactment of the act amending this code section, has been held invalid by the Supreme Court of Alabama or by final judgment of the circuit court in the county in which the election was held and from which judgment an appeal was not taken to the Supreme Court of Alabama within the time provided by law for the taking of appeals or to any election the validity of which is an issue in any pending civil action commenced prior to the effective date of the act amending this code section.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 22, 1998

Time: 8:00 A.M.

Act No. 98-369

S. 109 – Senator Roberts

AN ACT

To amend Section 40-1-37, Code of Alabama 1975, relating to the certain irregular elections of a special county or municipal tax, to provide further for elections exempted from the ratification process.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 40-1-37, Code of Alabama 1975, is amended to read as follows:

“§40-1-37.

“Every election heretofore held in any municipality or in any county on the question of the levy of a special tax for any purpose under the Constitution of Alabama, including any amendment thereto, at which election a majority of the votes cast were in favor of the levy of the said tax but which election was irregular by reason of failure prior to the holding of the election to give notice thereof in a newspaper or by posting in the manner or for the time required by any statute applicable to the election, or because of the failure to comply with any other statutory requirement applicable to the election, or because of any other irregularity with respect to the holding of the election or canvassing and recording the results thereof, shall be and every such election is hereby ratified and confirmed and given effect in all respects as if all provisions of law relating to such election had been duly and legally complied with,

and the said tax may be levied and collected pursuant to the authorization purported to have been granted at such election; provided, that this section shall not apply to any election which, prior to the effective date of this amendatory act, has been held invalid by the Supreme Court of Alabama or by final judgment of the circuit court in the county in which the election was held and from which judgment an appeal was not taken to the Supreme Court of Alabama within the time provided by law for the taking of such appeals or to any election the validity of which is an issue in any pending civil action commenced prior to the effective date of this amendatory act.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 22, 1998

Time: 8:01 A.M.

Act No. 98-370

S. 524 – Senator Ghee

AN ACT

To amend Sections 26-18-5 and 26-18-7, Code of Alabama 1975, relating to the termination of parental rights; to require the Department of Human Resources to file a petition for termination in cases in which a child has been in foster care for 15 of the most recent 22 months, cases in which the child has been abandoned, or cases in which the court has determined that a parent has assaulted the child or killed or assaulted another child, except in certain circumstances; to provide that proof of reasonable efforts or viable alternatives shall not be required in abandonment cases; and to provide as a grounds for termination of parental rights the conviction of the parent for murder or voluntary manslaughter of another child, for aiding, abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child, or for felony assault or abuse of a child or another child of the parent.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 26-18-5 and 26-18-7, Code of Alabama 1975, are amended to read as follows:

“§26-18-5.

“(a) A petition may be filed by the Department of Human Resources, any public or private licensed child-placing agency or parent, with permission of the court, or any interested party.

“(b) In the case of a child who has been in foster care under the responsibility of the department for 15 of the most recent 22 months, or, if a child has been abandoned or the parent has committed murder of another child of that parent, committed voluntary manslaughter of another child of that parent, or has aided, abetted,

attempted, conspired, or solicited to commit such a murder or such a voluntary manslaughter, or has committed a felony assault that has resulted in serious bodily injury, as defined in Section 26-18-7, to the child or to another child of the parent, the department shall file a petition to terminate the parental rights of the parents of the child, or if the petition has been filed by another party, seek to be joined as a party to the petition, and, concurrently, to identify, recruit, process, and approve a qualified family for adoption unless one of the following occurs:

“(1) The child is being cared for by a relative.

“(2) The department has documented in the case plan, which shall be available for court review, a compelling reason for determining that filing a petition would not be in the best interests of the child.

“(3) The department has not provided to the family of the child, consistent with the time period in the department’s case plan, such services as the department deems necessary for the safe return of the child to the child’s home, if reasonable efforts are required to be made with respect to the child.

“§26-18-7.

“(a) If the court finds from clear and convincing evidence, competent, material and relevant in nature, that the parents of a child are unable or unwilling to discharge their responsibilities to and for the child, or that the conduct or condition of the parents is such as to render them unable to properly care for the child and that such conduct or condition is unlikely to change in the foreseeable future, it may terminate the parental rights of the parents. In determining whether or not the parents are unable or unwilling to discharge their responsibilities to and for the child, the court shall consider, and in cases of voluntary relinquishment of parental rights may consider, but not be limited to, the following:

“(1) That the parents have abandoned the child, as herein defined, provided that in such cases, proof shall not be required of reasonable efforts to prevent removal or reunite the child with the parents;

“(2) Emotional illness, mental illness or mental deficiency of the parent, or excessive use of alcohol or controlled substances, of such duration or nature as to render the parent unable to care for needs of the child;

“(3) That the parent has tortured, abused, cruelly beaten or otherwise maltreated the child, or attempted to torture, abuse, cruelly beat or otherwise maltreat the child, or the said child is in clear and present danger of being thus tortured, abused, cruelly beaten, or otherwise maltreated as evidenced by such treatment of a sibling;

“(4) Conviction of and imprisonment for a felony;

“(5) Unexplained serious physical injury to the child under such circumstances as would indicate that such injuries resulted from the intentional conduct or willful neglect of the parent;

“(6) That reasonable efforts by the Department of Human Resources or licensed public or private child care agencies leading toward the rehabilitation of the parents have failed.

“(7) That the parent has been convicted by a court of competent jurisdiction of any of the following:

“a. Murder or voluntary manslaughter of another child of that parent.

“b. Aiding, abetting, attempting, conspiring, or soliciting to commit murder or voluntary manslaughter of another child of that parent.

“c. A felony assault or abuse which results in serious bodily injury to the surviving child or another child of that parent. The term “serious bodily injury” means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

“(8) That parental rights to a sibling of the child have been involuntarily terminated.

“(b) Where a child is not in the physical custody of its parent or parents appointed by the court, in addition to the foregoing, shall also consider, but is not limited to the following:

“(1) Failure by the parents to provide for the material needs of the child or to pay a reasonable portion of its support, where the parent is able to do so.

“(2) Failure by the parents to maintain regular visits with the child in accordance with a plan devised by the department, or any public or licensed private child care agency, and agreed to by the parent.

“(3) Failure by the parents to maintain consistent contact or communication with the child.

“(4) Lack of effort by the parent to adjust his circumstances to meet the needs of the child in accordance with agreements reached, including agreements reached with local departments of human resources or licensed child-placing agencies, in an administrative review or a judicial review.

“(c) In any case where the parents have abandoned a child as herein defined and such abandonment continues for a period of six months next preceding the filing of the petition, such facts shall

constitute a rebuttable presumption that the parents are unable or unwilling to act as parents. Nothing in this subsection is intended to prevent the filing of a petition in an abandonment case prior to the end of the four-month period.”

Section 2. The provisions of this act regarding termination of parental rights petitions required to be filed by the Department of Human Resources shall apply to all children coming into foster care after the effective date of the act adding this section. In the case of children in foster care on the effective date of the act, the department shall comply with the timetable established by federal law for the processing of such cases.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 22, 1998

Time: 8:03 A.M.

Act No. 98-371 S. 535 – Senators Figures, Dixon, Smitherman, Escott-Russell, McClain, Steele, Ghee, Clay, Waggoner, Langford, Butler, Davidson, Roberts, Denton, Armistead, Little, Hale, Dial, Freeman, and Sanders

AN ACT

To amend Sections 26-14-7.2, 26-14-8, and 26-14-9, Code of Alabama 1975, relating to the reporting of child abuse and neglect, to provide that the Department of Human Resources may pursue any legal remedy and discovery to provide medical care to prevent serious harm to a child and to prevent the withholding of medically indicated treatment to disabled infants with life-threatening conditions; to allow for the disclosure of child abuse or neglect reports, records, and information to government entities responsible for the protection of children, citizen and fatality review panels, other statutorily authorized entities, and public disclosure of child fatality and near fatality cases, and to prohibit the disclosure of not-indicated reports for purposes of employment or other background checks; and to provide immunity from liability for investigations and actions to members of multidisciplinary child protection and other case review teams and for good faith reporting of suspected child abuse or neglect.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 26-14-7.2, 26-14-8, and 26-14-9, Code of Alabama 1975, are amended to read as follows:

“§26-14-7.2.

“(a) When an investigation of child abuse or neglect by the Department of Human Resources determines that a parent or legal guardian legitimately practicing his or her religious beliefs has not provided specific medical treatment for a child, the parent or legal guardian shall not be considered a negligent parent or guardian for that reason alone. This exception shall not preclude a court from ordering that medical services be provided to the child when the child’s health requires it.

“(b) The department may, in any case, pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, as may be necessary to provide medical care or treatment for a child when the care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatments from disabled infants with life-threatening conditions. Upon application by the department, the court may issue prelitigation or pretrial discovery orders for persons, medical records, and other documents or materials.

“§26-14-8.

“(a) For the purposes of this section, the following words shall have the following meanings, respectively:

“(1) **INDICATED.** When credible evidence and professional judgment substantiates that an alleged perpetrator is responsible for child abuse or neglect.

“(2) **NOT INDICATED.** When credible evidence and professional judgment does not substantiate that an alleged perpetrator is responsible for child abuse or neglect.

“(b) The Department of Human Resources shall establish a statewide central registry for reports of child abuse and neglect made pursuant to this chapter. The central registry shall contain, but shall not be limited to:

“(1) All information in the written report;

“(2) Record of the final disposition of the report, including services offered and services accepted;

“(3) The names and identifying data, dates and circumstances of any persons requesting or receiving information from the registry; provided, however, that requests for information and responses where no report exists may be destroyed after three years from the date of the request;

“(4) The plan for rehabilitative treatment; and

“(5) Any other information which might be helpful in furthering the purposes of this chapter.

“(c) The Department of Human Resources shall establish and enforce reasonable rules and regulations governing the custody, use

and preservation of the reports and records of child abuse and neglect. Child abuse and neglect reports and records shall be limited to the purposes for which they are furnished and by the provisions of law under which they may be furnished. The reports and records of child abuse and neglect and related information or testimony shall be confidential, and shall not be used or disclosed for any purposes other than:

“(1) To permit their use to prevent or to discover abuse or neglect of children through the information contained therein, except reports or records in cases determined to be “not indicated” shall not be used or disclosed for purposes of employment or other background checks; or

“(2) For investigation of child abuse or neglect by the police or other law enforcement agency; or

“(3) For use by a grand jury upon its determination that access to such reports and records is necessary in the conduct of its official business; or

“(4) For use by a court where it finds that such information is necessary for the determination of an issue before the court; or

“(5) For use by any person engaged in bona fide research who is authorized to have access to such information by the Commissioner of the Department of Human Resources; or

“(6) For use by any person authorized by a court to act as a representative for an abused or neglected child who is the subject of a report; or

“(7) For use by a physician who has before him a child whom he reasonably suspects may be abused or neglected; or

“(8) For use by an attorney or guardian ad litem in representing or defending a child or its parents or guardians in a court proceeding related to abuse or neglect of said child; or

“(9) For use by federal, state, or local governmental entities, social service agencies of another state, or any agent of such entities, having a need for the information in order to carry out their responsibilities under law to protect children from abuse and neglect; or

“(10) For use by child abuse citizen review or quality assurance or multidisciplinary review panels; or

“(11) For use by child fatality review panels; or

“(12) For public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality; the term “near fatality” means an act that, as certified by a physician, places the child in serious or critical condition. Information identifying by name persons other than the victim shall not be disclosed.

“(d) The names of person or information in the investigative report placed on the state’s central registry which may be made available to the alleged perpetrator’s employer, prospective employer, or others are those cases that the Department of Human Resources or the investigative hearing officer has determined child abuse or neglect to be indicated.

“(e) In the case of any child abuse or neglect investigation which is determined to be “not indicated,” the alleged perpetrator may request after five years from the completion of the investigation that his or her name be expunged from the central registry so long as the Department of Human Resources has received no further reports concerning the alleged perpetrator during said five years, at which time the department shall expunge said name.

“(f) Nothing in this section shall be construed as restricting the ability of a department to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the department may not refuse such a disclosure in cases in which a court orders such disclosure after the court has reviewed, in camera, the record of the department related to the report or complaint and has determined that it has reason to believe that the person making the report knowingly made a false report.

“(g) Any person receiving reports or records of child abuse or neglect or related information under this section shall maintain the confidentiality of the documents and information and not disclose it except as authorized by law.

“(h) Any violation of the provision of confidentiality shall be a Class A misdemeanor.

“§26-14-9.

“Any person, firm, corporation or official, including members of a **multidisciplinary child protection team, quality assurance team, child death review team, or other authorized case review team or panel**, by whatever designation, participating in the making of a good faith report in an investigation or case review authorized under this chapter or other law or department practice or in the removal of a child pursuant to this chapter, or participating in a judicial proceeding resulting therefrom, shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.”

Section 2. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 22, 1998

Time: 8:04 A.M.

Act No. 98-372

S. 536 – Senator Davidson

AN ACT

To amend Sections 12-15-62 and 12-15-65, Code of Alabama 1975, relating to foster care, to require that a permanency hearing be held within 12 months of the placement of a child in foster care; to define the purpose of the permanency hearing and the term “enter into foster care”; to define reasonable efforts and to provide when reasonable efforts to reunify a child with a parent is not required; and to require that foster parents, pre-adoptive parents, and relatives providing care to a child be given notice and opportunity of the right to be heard in any hearing regarding a child in care in their home.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 12-15-62 and 12-15-65, Code of Alabama 1975, are amended to read as follows:

“§12-15-62.

“(a) When the court finds that a child’s full-time detention or shelter care is not required, the court shall order his release, and in so doing, may impose one or more of the following conditions singly or in combination:

“(1) Place the child in the custody of a parent, guardian, custodian or any other person whom the court deems proper or under the supervision of an agency or organization agreeing to supervise him or her;

“(2) Place restrictions on the child’s travel, association or place of abode during the period of his or her release; or

“(3) Impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in Section 12-15-59, including a condition requiring that the child return to custody as required.

“(b) An order releasing a child on any conditions specified in subsection (a) of this section may at any time be amended to impose additional or different conditions of release or to return the child to custody for failure to conform to the conditions originally imposed.

“(c) Within 12 months of any court order placing a child in foster care the court shall hold a permanency hearing. The Department of Human Resources shall present to the court at such hearing a permanent plan for said child. If a permanent plan is not presented to the court at this hearing there shall be a rebuttable presumption that the child should be returned to the family. This provision is intended to insure that a permanent plan is prepared by the Department of Human Resources and presented to

the court within 12 months of the placement of any child in foster care. The purpose of the permanency hearing shall be to determine the permanency plan for the child which may include whether, and, if applicable, when, the child shall be (i) returned to the parent, (ii) placed for adoption wherein the Department of Human Resources shall file a petition for termination of parental rights, or (iii) referred for legal custody. The permanency hearing shall determine whether the plan will include placement in another planned permanent living arrangement in cases where the department has documented to the court a compelling reason for determining that it would not be in the best interests of the child to return home, be referred for termination of parental rights, be placed for adoption, or be placed with a fit and willing relative, or with a legal custodian. For the purposes of this subsection only, a child shall be considered to have entered foster care on the earlier of (i) the date of the first judicial finding that the child has been subjected to abuse or neglect, or (ii) that date that is 60 days after the date on which the child is removed from the home.

“§12-15-65.

“(a) Hearings under this chapter shall be conducted by the court without a jury and separate from other proceedings. The general public shall be excluded from delinquency, in need of supervision, or dependency hearings and only the parties, their counsel, witnesses, and other persons requested by a party shall be admitted. Other persons as the court finds to have a proper interest in the case or in the work of the court may be admitted by the court on condition that the persons refrain from divulging any information which would identify the child or family involved. If the court finds that it is in the best interest of the child, the child may be temporarily excluded from the hearings, except while allegations of delinquency or in need of supervision are being heard. Relatives, pre-adoptive parents, or foster parents who have been approved by the Department of Human Resources providing care to a child shall be given notice and an opportunity to be heard in any hearing to be held with respect to a child in their care, except that no such person shall be made a party to the case by virtue solely of such notice and opportunity to be heard.

“(b) After the filing of a petition when the petition alleges or evidence reveals to the court that a child may be a multiple needs child, and that previous plans developed by an agency, or agencies, have not met the needs of the child, the court, on its own motion or motion of a party or party's parent or guardian or upon motion of the Department of Youth Services, a school system, the Department of Human Resources, the Department of Public Health, the Department of Mental Health and Mental Retardation,

or juvenile court probation services, may refer the child to the county children's services facilitation team for evaluation and review. This evaluation may occur prior to any hearing, or the court may suspend proceedings during the hearing or prior to disposition to review the findings and recommendations of the county children's services facilitation team.

"(c) The parties shall be advised of their rights under law in their first appearance at intake and before the court. They shall be informed of the specific allegations in the petition and given an opportunity to admit or deny the allegations.

"(d) If the allegations are denied, the court shall proceed to hear evidence on the petition. The court shall record its findings on whether or not the child is a dependent child or, if the petition alleges delinquency or in need of supervision, as to whether or not the acts ascribed to the child were committed by the child. If the court finds that the allegations in the petition have not been established, it shall dismiss the petition and order the child discharged from any detention or temporary care, theretofore ordered in the proceedings.

"(e) If the court finds on proof beyond a reasonable doubt, based upon competent, material, and relevant evidence, that a child committed the acts by reason of which the child is alleged to be delinquent or in need of supervision it may proceed immediately to hear evidence as to whether the child is in need of care or rehabilitation and to file its findings thereon. In the absence of evidence to the contrary, evidence of the commission of an act which constitutes a felony is sufficient to sustain a finding that the child is in need of care or rehabilitation. If the court finds that the child is not in need of care or rehabilitation, it shall dismiss the proceedings and discharge the child from any detention or other temporary care theretofore ordered.

"(f) If the court finds from clear and convincing evidence, competent, material, and relevant in nature, that the child is dependent and in need of care or supervision or from clear and convincing evidence, competent, relevant, and material in nature, that the child is in need of care or rehabilitation as a delinquent child or a child in need of supervision, or from clear and convincing evidence, competent, relevant, and material in nature that parental rights should be terminated, the court may proceed immediately, in the absence of objection showing good cause or at a postponed hearing, to make proper disposition of the case.

"(g) If the court enters an order removing a child from his or her home or continuing a child in a placement outside of his or her home pursuant to this title, the order shall contain as specific findings, if warranted by the evidence, all of the following:

“(1) That continuing the placement of a child in his or her home would be contrary to the best interests of the child.

“(2) That reasonable efforts have been made to prevent or eliminate the need for removal of the child from his or her home, or that an emergency situation exists which requires the immediate temporary removal of the child from his or her home and that it is reasonable not to make efforts to prevent removal of the child from his or her home due to the emergency situation.

“(3) That reasonable efforts have been made or will be made to reunite the child and his or her family, or that efforts to reunite the child and his or her family have failed.

“(h) In disposition hearings all relevant and material evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though not competent in a hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports.

“(i) A statement made by a child under the age of 12 describing any act of sexual conduct performed with or on the child by another, not otherwise admissible by statute or court rule, is admissible in all dependency cases brought by the State of Alabama acting by and through a local department of human resources if:

“(1) The statement was made to a social worker, child sex abuse therapist or counselor, licensed psychologist, physician, or school or kindergarten teacher or instructor; and

“(2) The court finds that the time, content, and circumstances of the statement provide sufficient indicia of reliability. In making its determination the court may consider the physical and mental age and maturity of the child, the nature and duration of the abuse or offense, the relationship of the child to the offender, and any other factor deemed appropriate.

“A statement may not be admitted under this section unless the proponent of the statement makes known to the adverse party the proponent’s intention to offer the statement and the particulars of the statement sufficiently in advance of the proceedings to provide the adverse party with a fair opportunity to rebut the statement. This child hearsay exception applies to all hearings involving dependency including, but not limited to, the 72-hour hearing, the dependency hearing, and the disposition hearing.

“(j) This exception contained herein shall not apply to a criminal proceeding or charge.

“(k) On its own motion or that of a party, the court may continue the disposition hearing under this section for a reasonable period to receive reports and other evidence bearing on the disposition or need for care or rehabilitation. In this event, the court shall make an appropriate order for detention or temporary care for the child, or the child’s release for detention or temporary care during the period of the continuance, subject to such conditions as the court may impose.

“(l) A proceeding to allow a child to withdraw from school shall be commenced by petition. The petition shall be granted only upon a showing of good cause for withdrawal. No child shall be deemed incorrigible, in need of supervision, or unamenable to treatment based on the filing of the petition.

“In the case of any child 14 years of age or older, where the court finds that the school officials have made a diligent effort to meet the child’s educational needs and, after study, the court further finds that the child is not able to benefit appreciably from further schooling, the court may excuse the child from further compliance with any legal requirement of compulsory school attendance and authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of 18.

“(m) As used in this chapter, “reasonable efforts” refers to efforts made to preserve and reunify families prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child’s home, and to make it possible for a child to return safely to the child’s home. In determining the reasonable efforts to be made with respect to a child, and in making such reasonable efforts, the child’s health and safety shall be the paramount concern. If continuation of reasonable efforts is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child and to complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts shall not be required to be made where the parental rights to a sibling have been involuntarily terminated or where a court of competent jurisdiction has determined that a parent has done any of the following:

“(1) Subjected the child to an aggravated circumstance, including, but not limited to, abandonment, torture, chronic abuse, substance abuse, or sexual abuse.

“(2) Committed murder or voluntary manslaughter of another child of such parent.

“(3) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of such parent.

“(4) Committed a felony assault which resulted in the serious bodily injury to the child or another child of such parent. The term “serious bodily injury” means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

“Nothing in the exceptions to making reasonable efforts listed in this subsection shall be interpreted to require the reunification of a child with a stepparent or paramour of a parent under similar circumstances.

“(n) If reasonable efforts are not made with respect to a child as a result of a determination made by a court of competent jurisdiction in situations as described above, a permanency hearing, as provided in Section 12-15-62, shall be held for the child within 30 days after the determination. Reasonable efforts shall be made to place the child and to complete whatever steps are necessary to finalize the permanent placement of the child. Reasonable efforts to place a child for adoption or with a legal guardian or custodian may be made concurrently with other reasonable efforts.”

Section 2. The provisions of this act are severable. If any part of the act is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 22, 1998

Time: 8:05 A.M.

Act No. 98-373

S. 409 – Senators Biddle, Bailey, Sanders, Freeman, Butler, Dixon, Smitherman, Mitchell, Langford, Roberts, Myers, Little, Davidson, Mitchem, Escott-Russell, Barron, Waggoner, Ghee, Lindsey, Amari, Denton, Figures, McClain, Poole, Clay, Smith, Hale, Windom, Armistead, Steele, Dial, and Bedford

AN ACT

To authorize the Alabama Public School and College Authority to sell and issue five hundred fifty million dollars (\$550,000,000) aggregate principal amount of additional bonds to implement the Capital Vitalization Plan of 1998; to provide

funds for capital improvements for public schools, with the specific intent to eliminate sub-standard classrooms, both portable and permanent; to provide funds for capital improvements for public education to abate emergency situations due to the windstorm and tornado damage of April 1998; to provide funds for capital improvements and instructional equipment for K-12 career/technical programs in public schools in order to provide for a skilled work force to meet demonstrated needs of industry in the local community; to provide funds to local boards of education for an allowance for transportation as it relates to fleet renewal pursuant to Section 16-13-233(b) Code of Alabama 1975; to provide funds for capital improvements for the Department of Youth Services; to provide funds to the Board of Trustees of the Alabama Institute for Deaf and Blind and to the Board of Trustees of the Southwest School for the Deaf and Blind for new construction, renovation, and equipping of existing structures and fleet renewal; to provide funds for capital improvements for postsecondary education; to provide funds to Calhoun Community College to meet the obligations of the state pursuant to its contract with McDonnell Douglas Corporation, a subsidiary of The Boeing Company; to provide funds for higher education for capital needs or for any indebtedness incurred in meeting these needs; to authorize the Authority to issue and sell its Bonds, without express limit as to principal amount, to finance loans to local boards of education for capital vitalization purposes in accordance with the local board of education K-12 Capital Plan, and to authorize local boards of education to borrow from the Authority for such purpose; to authorize the Authority to reimburse the Building Commission, Department of Finance and Treasurer's Office for costs incurred in the administration of the business of the Authority; to authorize the Authority to establish procedures and requirements to ensure compliance with the tax covenants with which the Authority must comply; to provide for the details of the bonds and for the terms of the sale thereof; to make an appropriation and pledge for payment of the principal of and interest on the bonds of proceeds from specific excise taxes to the extent necessary to pay the principal and interest at their respective maturities; to authorize the Authority to pledge for payment of the principal of and interest on the bonds the monies so appropriated and pledged; to provide that the bonds shall be limited obligations of the Authority payable solely out of the funds so appropriated and pledged and will not create a debt or obligation of the State; to provide that the bonds and the income therefrom shall be exempt from taxation in this State and the bonds may be used to secure deposits of funds of this State and its political subdivisions, instrumentalities and agencies, and for investment of fiduciary funds; to exempt the Authority and the bonds from the usury laws; to authorize the issuance by the Authority of refunding bonds for the purpose of refunding the principal and interest of any then outstanding bonds theretofore issued by the Authority and the expenses of such refunding and any premiums necessary to retire those so refunded; to provide that after payment of the expenses of the issuance of the bonds the proceeds from the sale thereof shall be disbursed on orders or warrants issued by or under the direction of the Authority for the purposes for which the Bonds are authorized to be issued; to provide for the timely expenditure of the proceeds from the sale of the Bonds; to provide for the employment of attorneys, fiscal advisors, trustees, paying agents, investment bankers, banks, and underwriters and for the payment of expenses incurred in connection with the issuance of bonds; to provide for implementation of the Capital Vitalization Plan of 1998; to provide for use of amounts repaid to the Authority by local boards of education; and to provide that if any portion of this act should be held invalid such holding shall not affect the validity of any other portion thereof.

Be It Enacted by the Legislature of Alabama:

Section 1. Short Title. This act shall be known and may be cited as the "Pete Turnham Excellence in Education Bond Issue Act of 1998."

Section 2. Definitions. Wherever used in this act, the following terms shall have the following meanings respectively, unless the context clearly indicates otherwise:

“1965 Act” means Act No. 243 enacted at the 1965 First Special Session of the Legislature, codified as Title 16, Chapter 16, Code of Alabama 1975.

“1971 Acts” means Act No. 94 enacted at the 1971 First Special Session of the Legislature, Act No. 2428 enacted at the 1971 Regular Session of the Legislature, and Act No. 56 enacted at the 1971 Second Special Session of the Legislature.

“1973 Act” means Act No. 1277 enacted at the 1973 Regular Session of the Legislature as amended by Act No. 73 enacted at the 1975 Third Special Session of the Legislature and Act No. 1223 enacted at the 1975 Regular Session of the Legislature.

“1978 Act” means Act No. 138 enacted at the 1978 Second Special Session of the Legislature, as amended by Act No. 79-41 enacted at the 1979 Special Session of the Legislature and Act No. 81-827 enacted at the 1981 Regular Session of the Legislature.

“1985 Act” means Act No. 85-943 enacted at the 1985 Second Special Session of the Legislature.

“1990 Act” means Act No. 90-280 enacted at the 1990 Regular Session of the Legislature.

“1995 Act” means Act No. 95-752 enacted at the 1995 Regular Session of the Legislature.

“Alabama Commission for the Development of a Skilled Work Force” means a commission comprised of the following: The Chancellor of the Department of Postsecondary Education, who shall act as its chairman, the Finance Director of the state, the President of the Business Council of Alabama, the President of the Economic Development Partnership of Alabama, the President of the Alabama Industry & Manufacturers Association, and the President of the Alabama AFL-CIO.

“Annual School Capital Planning Process” means that capital outlay planning project part of the K-12 Capital Plan as instituted by the State Superintendent of Education at the direction of the State Board of Education to meet the accountability requirements of the Foundation Program (Acts 1995, No. 95-314) by developing a system that could be used by each local school system to conduct effective facility planning in order to enhance the ability of local school systems to provide quality learning environments for all students.

“Authority” means Alabama Public School and College Authority.

“Boeing Contract” means that document titled Delta IV Common Booster Core Site Development and Location Agreement between McDonnell Douglas Corporation, a wholly owned subsidiary of The Boeing Company and the respective State of Alabama, Morgan County and City and Development Authorities of Alabama, and executed by Fob James, Jr., Governor on October 7, 1997.

“Bonds” (except where that word is used with reference to bonds issued under another act) means those bonds, other than refunding bonds, issued under the provisions of this act.

“Capital Improvement” means capital outlay projects that include the planning, designing, inspection, purchasing, construction, reconstruction, enlargement, improvement, repair, or renovation of permanent buildings containing classrooms, offices, libraries, laboratories, clinical or teaching facilities, dormitories, vocational education facilities, cafeterias, alternative schools, physical education facilities, research facilities, related campus improvements and land as sites therefor, together with equipment therefor.

“Capital Vitalization Plan of 1998” means a plan adopted by the Authority for acquisition, construction and installation of capital improvements for public education purposes.

“Commission” means the building commission created by Section 41-9-140 Code of Alabama 1975, and its successors as the state agency for awarding construction contracts and supervising construction.

“Government Securities” means any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon).

“K-12 Capital Plan” means a comprehensive, long range capital plan developed by a local board of education to address the facility, educational technology and equipment needs of the local board of education pursuant to the Annual School Capital Planning Process rules and regulations as adopted by the State Board of Education.

“Legislature” means the Legislature of Alabama.

“Local Board of Education” means the governing body of any city or county school system in the state; the Youth Services Department District; the Alabama School of Fine Arts; and the Alabama High School of Mathematics and Science.

“Permitted Investments” means (i) Government Securities; (ii) bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank; Federal Home Loan Banks; Federal Farm Credit Bank; Export-Import Bank of the United States; Federal Land Banks, or Farmers Home Administration or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof; (iii) bonds, notes, pass through securities or other evidences of indebtedness of Government National Mortgage Association and participation certificates of Federal Home Loan Mortgage Corporation; (iv) full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least “AA” by Standard & Poor’s Ratings Group and at least “Aa” by Moody’s Investors Service; (v) public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment to both principal and interest by a requisition or payment agreement with the United States of America; (vi) time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation, provided that, to the extent such time deposits are not covered by federal deposit insurance, such time deposits (including interest thereon) are fully secured by a pledge of obligations described in clauses (i), (ii), (iii), and (v) above, which at all times have a market value not less than the amount of such bank time deposits required to be so secured and which meet the greater of 100% collateralization or the “AA” collateral levels established by Standard & Poor’s Ratings Group for structured financings; (vii) repurchase agreements for obligations of the type specified in clauses (i), (ii), (iii), and (v) above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value at least equal to the purchase price of such repurchase agreements which are held by a depository satisfactory to the State Treasurer in such manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100% collateralization or the “AA” collateral levels established by Standard & Poor’s Ratings Group for structured financings; and (viii) uncollateralized investment agreements with,

or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Ratings Group and at least "Aa" by Moody's Investors Service.

"Portable Classrooms" means those structures used as academic instruction or classroom buildings constructed of such materials or in such manner as shall render such structures impermanent in nature or which are designed to be movable or portable from one location to another.

"Public Education" means the education of students in public schools; in community, junior and technical colleges operated under the auspices of the State Board of Education; and in public colleges and universities of the state.

"Public School" means grade kindergarten through grade twelve, inclusive, of those educational institutions operated under the auspices of the State Board of Education.

"Refunding Bonds" means those refunding bonds issued under the provisions of this act.

"State" means the State of Alabama.

"Trust Fund" means the Education Trust Fund, formerly designated as the Alabama Special Educational Trust Fund, the name of which was changed to the Education Trust Fund, effective October 1, 1996, pursuant to Act No. 95-264 enacted at the 1995 Regular Session of the Legislature.

Nouns and pronouns when used in this act shall be deemed to include both singular and plural and all applicable genders.

Section 3. Authorization to Issue Additional Bonds and Purposes Thereof. (a) The Authority is hereby authorized to sell and issue its Bonds in the aggregate principal amounts of five hundred fifty million dollars (\$550,000,000) for the following purposes: purchasing for public education purposes in the state items constituting capital improvements; providing funds for public education for capital improvements to abate emergency situations due to the windstorm and tornado damage of April 1998; providing funds for capital improvements and instructional equipment for career/technical education for the improvement of career/technical programs in grades 7 through 12; providing funds to local boards of education for an allowance for transportation as it relates to fleet renewal pursuant to Section 16-13-233(b) Code of Alabama 1975; providing funds for capital improvements for the Department of Youth Services; providing funds to the Board of Trustees of the Alabama Institute for Deaf and Blind and to the Board of Trustees

of the Southwest Alabama Regional School for the Deaf and Blind for capital improvements and fleet renewal; providing funds for capital improvements for postsecondary education; and providing funds for capital improvements or any indebtedness incurred for capital improvements for public institutions of higher education.

(b) The Authority is further authorized to issue and sell its Bonds, in one or more series from time to time, without express limit as to principal amount, to finance loans to local boards of education as provided in Section 10 hereof.

(c) The Bonds authorized in this act to be issued by the Authority shall be in addition to all other bonds previously authorized to be issued by it, and the powers conferred on the Authority by this act are in addition to all other powers heretofore conferred on the Authority by acts heretofore enacted by the Legislature.

Section 4. Execution and Other Details of the Bonds. The Bonds shall be signed by the president or vice-president of the Authority, and the seal of the corporation shall be affixed thereto (or a facsimile thereof imprinted thereon) and attested by its secretary. All signatures of the president, vice-president, and secretary may be facsimile signatures if the Authority, in its proceedings with respect to issuance, provides for manual authentication (which may be in the form of a certificate as to registration) of the Bonds by a trustee, registrar or paying agent or by named individuals who are employees of the State and who are assigned to the Finance Department or State Treasurer's Office of the State. All Bonds bearing signatures or facsimiles of the signatures of officers of the Authority in office on the date of signing thereof shall be valid and binding notwithstanding that before the delivery thereof and payment therefor, any officer whose signature appears thereon shall have ceased to be an officer of the Authority. The Bonds and the income therefrom shall be exempt from all taxation in the State, may be used as security for deposits, and shall be eligible for investments of fiduciary funds, as provided in the 1965 Act. The Bonds shall be construed to have all the qualities and incidents of negotiable instruments subject to any registration provisions pertaining to transfers. The Authority and the Bonds shall be exempt from all laws of the State governing usury including, without limitation, the provisions of Title 8, Chapter 8, Code of Alabama 1975, or any subsequent statute of similar import. The Bonds shall be in such form or forms and denomination or denominations and of such tenor and maturities, shall bear such rate or rates of interest payable and evidenced in such manner, may be made subject to redemption prior to their maturities, and may contain provisions not inconsistent with this act, all as may be provided by the resolution of the Authority under which the Bonds

may be issued; provided, that no Bonds shall have a specified maturity date later than twenty years after their date; and provided further, that those Bonds having maturities more than ten years after their date shall be subject to redemption at the option of the Authority on any interest payment date on and after the tenth anniversary after their date at such redemption price and under such conditions as may be prescribed in the proceedings of the Authority under which they are issued. For the purpose of paying the principal of, premium, if any, and interest on the Bonds or any Refunding Bonds, the Authority shall designate the State Treasurer or such bank or banks as it, in its discretion, determines to be appropriate and desirable. Funds for the payment of debt service shall be transferred by the Authority or the State Treasurer on behalf of the Authority to the designated paying agent on the actual due date of such principal, premium, if any, or interest.

Section 5. Sale of the Bonds. The Bonds may be sold by the Authority from time to time in series, and if sold in more than one series, may all be authorized in one initial resolution of the Authority with the pledges therefor made by the Authority in such initial resolution although some of the details applicable to each series may be specified in the respective resolutions under which the different series are issued. The Authority, in the course of establishing, by resolution, a principal amount of Bonds to be authorized for sale at any given time, or to be sold in any series, may take into account the existence of any unexpended proceeds of prior issues of bonds of the Authority (and of any other issuer, if such should be deemed by the Authority to be relevant), and may structure the portions of the allocations (provided for in Section 9 of this act) to be distributed from the proceeds of a particular series (constituting less than all the Bonds authorized by this act) as the Authority deems necessary or prudent in order to enable the Authority to comply with any tax covenants that may be required of it, or that may be deemed by it to be prudent to be given by it, in connection with sale of any series of the Bonds. Each series of the Bonds shall be sold at competitive bid and at such price or prices and at such time or times as the Authority may consider advantageous. Bonds sold by competitive bid must be sold to the bidder whose bid reflects the lowest effective borrowing cost to the Authority on the series of the Bonds being sold; provided, that if no bid acceptable to the Authority is received it may reject all bids. Notice or summary notice of each such sale by competitive bids shall be given by publication in either a financial journal or a financial newspaper published in the City of New York, New York, and also by publication in a newspaper published in the State which is customarily published not less often than five days during

each calendar week, each of which notices must be published at least one time not less than ten days prior to the date fixed for the sale or, in the event no bid acceptable to the Authority is received at any such sale and the Bonds so offered are thereafter reoffered on the same terms and conditions, not less than five days prior to the date fixed for sale. The Authority may fix the terms and conditions under which the sale of any series of the Bonds may be held; provided, that the terms and conditions shall not conflict with any requirement of this act. Approval by the Governor of Alabama of the terms and conditions under which any Bonds may be issued shall be requisite to their validity. Before any series of the Bonds shall be offered for sale by the Authority, the Governor shall first determine that the issuance of that series of Bonds and the application of the taxes pledged to the payment of the principal of the Bonds as they mature and interest thereon as it comes due will not impair the adequacy of the Trust Fund to pay appropriations therefrom and to support the public schools and institutions of higher learning during the period over which the Bonds will mature. The Governor's determination shall be in writing signed by the Governor and that determination shall be final and conclusive. Neither a public hearing nor consent of the State Department of Finance or any other department or agency shall be a prerequisite to the issuance of any of the Bonds.

Section 6. Appropriation of Revenues to the Authority; Pledge Thereof for the Benefit of the Bonds. For the purpose of providing for payment of the principal of, premium, if any, and interest on the Bonds and to accomplish the objectives of this act, there is hereby irrevocably pledged to those purposes, and hereby appropriated, the amount that may be necessary for those purposes from the following sources:

(a) The residue of the receipts from the excise tax ("the utility gross receipts tax") levied by Title 40, Chapter 21, Article 3, Code of Alabama 1975, as amended ("Article 3"), remaining after payment of the expenses of administration and enforcement of Article 3, being that portion of the tax that is required by Article 3 to be deposited in the State Treasury to the credit of the Trust Fund, after there shall have been taken from the residue the amount necessary to pay at their respective maturities the principal of and interest on those bonds issued by the Authority under the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act or the 1995 Act that may be outstanding at the time of the delivery of the respective series of the Bonds authorized herein;

(b) The residue of the receipts from the excise tax ("the utility service use tax") levied by Title 40, Chapter 21, Article 4, Code of Alabama 1975 ("Article 4"), remaining after payment of the

expenses of administration and enforcement of Article 4, being that portion of the tax that is required by Article 4 to be deposited in the State Treasury to the credit of the Trust Fund, after there shall have been taken from the residue the amount necessary to pay at their respective maturities the principal of and interest on those bonds issued by the Authority under the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act or the 1995 Act that may be outstanding at the time of the delivery of the respective series of the Bonds authorized herein;

(c) The residue of the receipts from the license tax ("the lease tax") levied on those engaging in the business of leasing or renting tangible personal property levied by Title 40, Chapter 12, Article 4, Code of Alabama 1975 ("Chapter 12, Article 4"), remaining after payment of the expenses of administration and enforcement of Chapter 12, Article 4, being that portion of the tax that is required by Chapter 12, Article 4 to be deposited in the State Treasury to the credit of the Trust Fund, after there shall have been taken from the residue the amount necessary to pay at their respective maturities the principal of and interest on those bonds issued by the Authority under the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act or the 1995 Act that may be outstanding at the time of the delivery of the respective series of the Bonds authorized herein;

(d) To the extent and to the extent only that the revenues appropriated in the foregoing subsections (a), (b), and (c) of this Section may not be sufficient to pay at their respective maturities the principal of, premium, if any, and interest on the Bonds, the residue of the receipts from the excise tax ("the sales tax") levied by Title 40, Chapter 23, Article 1, Division 1, Code of Alabama 1975, as amended ("Article 1"), after there shall have been taken from the residue the amounts appropriated for other educational purposes in Section 40-23-35, Code of Alabama 1975 (which residue constitutes that portion of the receipts from the sales tax that is now required by law to be paid into the Trust Fund), and after there shall have been taken from the residue amounts sufficient to meet all prior charges on the residue including such amounts as may be necessary to pay at their respective maturities the principal of and interest on those bonds issued by the Authority under the 1965 Act, the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act or the 1995 Act that may be outstanding at the time of the delivery of the respective series of the Bonds authorized herein; and

(e) To the extent and to the extent only that the revenues appropriated in the foregoing subsections (a), (b), (c), and (d) of this Section may not be sufficient to pay at their respective maturities

the principal of, premium, if any, and the interest on the Bonds, the residue of the receipts from the excise tax ("the use tax") levied by Title 40, Chapter 23, Article 2, Code of Alabama 1975, as amended ("Article 2"), after there shall have been taken from the residue the amount necessary to meet the expenses of the State Department of Revenue in collecting the use tax (which residue constitutes that portion of the receipts from the use tax that is now required by law to be paid into the Trust Fund), and after there shall have been taken from the residue such amounts as may be necessary to meet all prior charges on the use tax including the amounts sufficient to pay at their respective maturities the principal of and interest on those outstanding bonds referred to in subsection (d) of this Section.

All monies hereby appropriated and pledged shall constitute a sinking fund for the purpose of paying the principal of, premium, if any, and interest on the Bonds. The State Treasurer is authorized and directed to pay at their respective maturities the principal of, premium, if any, and interest on the Bonds out of this fund and out of the residues of the tax receipts herein appropriated and pledged for the benefit of the Bonds, and he or she is authorized and directed to set up and maintain appropriate records pertaining thereto.

Section 7. Bonds to be Payable Solely out of the Revenues Appropriated; Authorization for Authority to Pledge Such Revenues for the Bonds. The Bonds shall not be general obligations of the Authority but shall be limited obligations payable solely out of the residues of the tax receipts appropriated and pledged in Section 6 of this act. All Bonds issued by the Authority pursuant to the provisions of this act shall be solely and exclusively obligations of the Authority and shall not constitute or create an obligation or debt of the State. As security for the payment of the principal of, premium, if any, and interest on the Bonds, the Authority is hereby authorized and empowered to pledge the residues of the tax receipts that are appropriated and pledged in Section 6 hereof for such purposes. All such pledges made by the Authority shall take precedence in the order of the adoption of the resolutions containing the pledges. All such pledges shall be prior and superior to any pledges that may be made for any refunding bonds hereafter issued by the Authority under the provisions of any of the 1965 Act, the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, or any other act heretofore enacted.

Section 8. Refunding Bonds. For the purpose of refunding any Bonds or Refunding Bonds of the Authority issued under the provisions of this act, the 1965 Act, the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, or any other act previously enacted, or any combination thereof, whether the refunding

shall occur before, at or after the maturity of the bonds refunded and for the purpose of paying all premiums and expenses of the refunding (including, but not limited to, attorneys' fees, costs of printing the Refunding Bonds, fiscal agents' fees, and accountants' fees), the Authority is hereby authorized to sell and issue its Refunding Bonds. Such Refunding Bonds may be sold and issued from time to time, at either public or private sale, and on such other terms and conditions as the Authority shall determine to be advantageous and shall adopt and provide for in its proceedings for the sale and issuance of such Refunding Bonds; provided, however, that no Refunding Bonds shall be issued unless the present value of all debt service on the Refunding Bonds (computed with a discount rate equal to the true interest rate of the Refunding Bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than 97 percent of the present value of all debt service on the Bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such Bonds) determined as if such Bonds to be refunded were paid and retired in accordance with the schedule of maturities (considering mandatory redemption as scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of the Refunding Bonds, as measured from the date of issuance of such Refunding Bonds, shall not exceed by more than three years the average maturity of the Bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of Bonds to be determined by multiplying the principal of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of Bonds for which the average maturity is to be determined. For the purpose of providing funds to enable the Authority to pay at their respective maturities the principal of, premium, if any, and interest on the Refunding Bonds issued under this act, the Authority is hereby authorized to pledge irrevocably for such purpose, and there is hereby appropriated for such purpose, such amount as may be necessary of the residues of the receipts from the excise taxes pledged and appropriated in subsections (a), (b), (c), (d), and (e) of Section 6 of this act, any reserves or sinking funds established by the Authority, as well as revenues of the Authority from any other sources specified in the proceedings wherein the Refunding Bonds are authorized to be issued. Pending the application of the proceeds of Refunding Bonds issued in accordance with this Section, the proceeds, together with investment earnings therefrom, and amounts in any sinking fund, together with investment earnings thereon, may be held by the State Treasurer as treasurer of the Authority in trust, or may be deposited by the State

Treasurer in trust, on such terms as the State Treasurer and the Authority shall approve, with a trustee or escrow agent, which trustee or escrow agent shall be a banking institution or trust company authorized to exercise trust powers in Alabama, for investment in Permitted Investments. Proceeds of Refunding Bonds shall be so invested and applied as to assure that the principal, interest, and redemption premium, if any, on the Bonds being refunded shall be paid in full on the respective maturity, redemption, or interest payment dates. Refunding Bonds issued by the Authority shall not be general obligations of the Authority but shall be payable solely from the sources specified in this act and in the proceedings where the Refunding Bonds are authorized to be issued. All Refunding Bonds issued by the Authority shall be solely and exclusively obligations of the Authority and shall not create debts of the State of Alabama. The faith and credit of the State of Alabama shall never be pledged for the payment of any Refunding Bonds issued by the Authority under this act. The Authority may contract with respect to the safekeeping and application of the Refunding Bonds proceeds and other funds included therewith and the income therefrom including the right to appoint a trustee which may be any trust company within and/or without the State. All other provisions of this act shall apply to the Refunding Bonds issued hereunder except (a) the limitation contained in Section 3 of this act on the amount of Bonds that may be issued under this act and (b) the provisions of Section 9 and Section 10 of this act. All pledges made by this act or by the Authority pursuant to the provisions of this act, for the benefit of Refunding Bonds issued under this act, and all such pledges for the benefit of Refunding Bonds which may be issued to refund any bonds issued under any of the 1965 Act, the 1971 Acts, the 1973 Act, the 1978 Act, the 1985 Act, the 1990 Act, the 1995 Act, or this act, shall take precedence in the order of the adoption of the resolutions authorizing the issuance of such Refunding Bonds whether issued under this act or under any other act. Bonds refunded prior to their maturity with the proceeds of Refunding Bonds shall be defeased if the Authority, in its proceedings regarding issuance of the Refunding Bonds provides for and establishes a trust or escrow fund comprised of monies or Government Securities, or both, sufficient to pay, when due, the entire principal of, premium, if any, and interest on the refunded bonds; provided, that such Government Securities shall not be subject to redemption prior to their maturities other than at the option of the holder thereof. Upon the establishment of such a trust or escrow fund, the refunded bonds shall no longer be deemed to be outstanding, shall no longer be secured by the funds pledged therefore in Section 6 of this act, shall no longer be obligations of the Authority and shall be secured solely by and payable from monies and Government Securities deposited in such trust or escrow fund.

Section 9. Use of Bond Proceeds. (a) The proceeds derived from each sale of the Bonds issued pursuant to subsection (a) of Section 3 hereof shall be deposited in the State Treasury and shall be carried in a separate fund therein for the account of the Authority, which shall pay therefrom the expenses of issuance thereof. The expenses of issuance of the Bonds shall be prorated among the recipients listed in the act of the proceeds from the sale of the Bonds in proportions they receive allocations of the proceeds thereunder. The proceeds from the sale of the Bonds remaining after payment of the expenses of issuance thereof shall be retained in the fund and, until they are paid out, shall be invested by the State Treasurer at the direction of the Authority in Permitted Investments which mature at such time or times as the Authority shall direct. Monies in the fund (whether original proceeds from the sale of the Bonds or principal proceeds of matured Permitted Investments) shall be paid out from time to time in orders or warrants issued by or on the direction of the Authority for any one or more of the purposes specified in subsection (a) of Section 3 of this act that may be deemed by the Authority to be most advantageous to the State, and such monies shall be allocated and expended by the Authority, subject to all the provisions of this act, in the amounts set out as follows:

(i) Three hundred forty-nine million dollars (\$349,000,000) for public schools shall be allocated and distributed to local boards of education, pro rata based on the 1997-1998 first 40 scholastic days of average daily membership of public schools, except for Madison City School System shall receive a pro rata share of the proceeds allocated to Madison County School System based on the agreed upon first 40 scholastic days of average daily membership used for the fiscal year 1998-99 budgetary process, for the following uses in order of the following priorities: (1) first, for use in providing capital improvements to eliminate sub-standard classrooms, both portable and permanent, pursuant to the K-12 Capital Plan, and (2) second, for use in providing other capital improvements upon a determination by the Authority that proceeds are not needed for the purposes described in subsection (1) above.

For a local board of education to be eligible to receive an allocation of the bond proceeds provided in this section, the local board of education must receive the approval of the State Superintendent of Education on the completion of the initial report of Annual School Capital Planning Process for the elimination of substandard classrooms, both portable and permanent, pursuant to the guidelines, procedures and regulations as established by the State Board of Education, by the end of the fiscal year ending September 30, 2001.

(ii) Nine million dollars (\$9,000,000) for public schools shall be allocated and distributed for capital improvements to local boards of

education through an allocation method based on the Foundation Program allowance for other current expense as determined for fiscal year 1998-99. Notwithstanding the provisions of Section (5) of Act 95-314 as enacted by the Legislature in the 1995 Regular Session of the Legislature, only for fiscal year 1998-99 the Foundation Program state allocation shall be deemed to include the funds allocated to each local board of education pursuant to this sub-section.

(iii) Ten million dollars (\$10,000,000) for public education shall be allocated and distributed for capital improvements to abate emergency situations at any damaged school due to wind-storm and tornados of April 1998. The Authority shall determine the amount of these funds necessary to abate the emergency situations, and any unexpended funds of this section shall be re-allocated and distributed for public education by the Authority for any of the purposes for which Bonds may be issued under this act.

(iv) Twenty million dollars (\$20,000,000) for public schools shall be allocated and distributed to local boards of education pro rata based on the 1997-1998 first 40 scholastic days of average daily membership of public school grades 7 through 12 for capital improvements and instructional equipment in career and technical education programs necessary to provide a skilled work force to meet demonstrated needs of industry in the local community or for capital improvements of those local boards of education that do not have career and technical education programs.

(v) Twenty-one million dollars (\$21,000,000) for public schools shall be allocated and distributed to local boards of education for transportation purposes as it relates to fleet renewal pursuant to Section 16-13-233(b) Code of Alabama 1975 and the rules relating thereto as adopted by the State Board of Education.

(vi) Five million dollars (\$5,000,000) shall be allocated and distributed to the Department of Youth Services for capital improvements.

(vii) Four million dollars (\$4,000,000) shall be allocated and distributed to the Board of Trustees of the Alabama Institute for Deaf and Blind for capital improvements and fleet renewal at the Institute.

(viii) One million dollars (\$1,000,000) shall be allocated and distributed to the Board of Trustees of the Southwest Alabama Regional School for the Deaf and Blind for capital improvements and fleet renewal at the school.

(ix) Thirty-one million dollars (\$31,000,000) shall be allocated and distributed for postsecondary education as follows: (1) Six million dollars (\$6,000,000) for capital improvements at Calhoun Community College to meet all or any part of the obligations of the

state pursuant to the Boeing Contract. The State Board of Education after discussions with the Chancellor of the Department of Postsecondary Education, the appropriate official(s) from the Alabama Industrial Development Training Institute, the president of Calhoun Community College, the executive director of the Alabama Development Office, and if necessary appropriate official(s) of Boeing, will submit to the Authority documentation on necessary facilities and equipment. Such documentation will include, but not be limited to, architectural analysis and cost estimates of the facility to be renovated or constructed and an itemized listing and cost estimate of any equipment to be utilized in the facility. The Authority will review the documentation submitted and award funding to the extent necessary to comply with all or any part of the obligation of the state under the Boeing Contract. Any proceeds determined by the Authority not to be necessary to meet an obligation of the state pursuant to the Boeing Contract will be allocated according to subsection (2) hereafter. (2) Twenty-five million dollars (\$25,000,000) for community, junior, and technical colleges operated under the auspices of the State Board of Education for capital improvements necessary to provide a skilled work force to meet the demonstrated needs of the manufacturing industries and the health care delivery system in the state. Each community, junior, and technical college shall receive a proportionate share allocation based on their appropriation as received during fiscal year 1997-98 for operations and maintenance. The allocations required herein shall be distributed among the following colleges: Alabama Aviation and Technical College; Alabama Southern Community College; Harry M. Ayers State Technical College; Bessemer State Technical College; Beville State Community College; S.D. Bishop State Community College; Calhoun Community College; Central Alabama Community College; Chattahoochee Valley State Community College; J. F. Drake State Technical College; Enterprise State Junior College; Faulkner State Community College; Gadsden State Community College; J. F. Ingram State Technical College; Jefferson Davis State Community College; Jefferson State Community College; Theodore A. Lawson State Community College; Lurleen B. Wallace State Junior College; Douglas MacArthur State Technical College; Northeast Alabama State Community College; Northwest-Shoals Community College; John M. Patterson State Technical College; Ed E. Reid State Technical College; Shelton State Community College; Snead State Community College; Chauncey Sparks State Technical College; Southern Union State Community College; Council Trenholm State Technical College; George C. Wallace State Community College (Dothan); George C. Wallace State Community College (Hanceville); George C. Wallace State Community College (Selma). Each community, junior or technical college seeking an allocation of these funds

must first develop a master plan that identifies its manufacturing needs and/or health care service needs and the work force and/or technical and health skills that are in greatest demand in its service area. The Chancellor of the Department of Postsecondary Education shall promulgate and the State Board of Education shall approve rules and regulations which specify the necessary components of a complete master plan. The complete master plan will be submitted to the Alabama Commission for the Development of a Skilled Work Force. The Alabama Commission for the Development of a Skilled Work Force shall review the plans and submit written recommendations to the Authority for the Authority's consideration in determining those plans that should receive funds for development and implementation.

(x) One hundred million dollars (\$100,000,000) shall be allocated and distributed for higher education to public colleges and universities as follows:

Doctoral Universities:

Alabama A and M University	\$4,495,767
Auburn University.....	\$16,061,511
University of Alabama	\$13,719,513
University of Alabama at Birmingham	\$20,114,075
University of Alabama in Huntsville	\$4,854,589
University of South Alabama.....	\$9,940,962

Nondoctoral Colleges and Universities:

Alabama State University.....	\$4,147,690
Athens State College	\$2,437,153
Auburn University at Montgomery	\$3,288,825
Jacksonville State University	\$4,716,505
Troy State University.....	\$3,925,324
Troy State University Dothan	\$1,144,105
Troy State University Montgomery.....	\$1,223,715
University of Montevallo.....	\$3,232,373
University of North Alabama	\$3,846,240
University of West Alabama	\$2,851,653

(b) Any interest earnings on permitted investments may be allocated by the Authority for any of the purposes for which Bonds

may be issued under this act. The Authority shall give priority consideration to projects that qualify for matching funds from federal or other sources.

(c) In expending proceeds from the sale of the Bonds according to the allocations hereinabove set out in this section, the Authority may take into account the existence of any unexpended proceeds of prior issues of bonds of the Authority (and of any other issuer, if such should be deemed by the Authority to be relevant), and may establish such procedures and requirements respecting use of unexpended proceeds of such prior issues by any recipient of any allocation thereof as a precondition to allocation to such recipient of proceeds of any of the said bonds, as the Authority deems necessary or prudent in order to enable the Authority to comply with any tax covenants that may have been required of it, in connection with the sale of any series of the said bonds.

(d) Three years following the allocation of the proceeds of the said Bonds, as provided herein, the Authority shall review any unexpended proceeds and shall, at its sole discretion, determine if said remaining proceeds shall revert to the Authority for reallocation.

(e) Notwithstanding any of the foregoing and in addition to all powers heretofore granted to the Authority, the Authority is hereby expressly authorized to use the proceeds derived from the sale of bonds in accordance with the provisions of Section 3 of this act. The preparation of all plans and specifications for any building constructed wholly or in part with any of the monies realized from the sale of any of the Bonds and all work done pursuant to expenditure of the proceeds thereof in regard to the construction, reconstruction, alteration, improvement, and equipping of buildings shall be supervised by the Commission, and the Authority shall reimburse the Commission for its reasonable direct costs in having plans, specifications, and contract documents prepared and in supervising and inspecting the work. Additionally, the Authority is hereby expressly permitted to pay to the Department of Finance and the State Treasurer's Office, from time to time and from any funds available to the Authority, amounts to offset costs incurred in the administration of the business of the Authority. The cost of such compensation shall be prorated among the recipients of any of the bond proceeds in the same manner as the expenses of issuance are prorated. Additionally, the Authority is hereby expressly permitted to pay to the members of the Alabama Commission for the Development of a Skilled Work Force a per diem for meals, lodging and travel commensurate with the prevailing state per diem allowance. The cost of such compensation shall be charged against the bond proceeds derived from the sale of bonds pursuant to subsection (a)(v)(2) of this Section 9.

Section 10. Use of Bond Proceeds for Loans to Local Boards of Education. The proceeds derived from the sale of any Bonds issued pursuant to subsection (b) of Section 3 of this act shall be deposited in the State Treasury and shall be carried in a separate fund therein for the account of the Authority, which shall pay therefrom the expenses of issuance thereof. The proceeds from the sale of the Bonds remaining after payment of the expenses of issuance thereof shall be retained in such fund and, until they are paid out, shall be invested by the State Treasurer at the direction of the Authority in Permitted Investments which mature at such time or times as the Authority shall direct. Monies in the fund (whether original proceeds from the sale of the Bonds or principal proceeds of matured Permitted Investments) shall be available for loan by the Authority. The Authority is hereby authorized to loan, and each local board of education is hereby authorized to borrow, such monies under terms and procedures to be established by the Authority. Each such loan shall be evidenced by a warrant or warrants issued by the local board of education and may include such terms and provisions as are consistent with this act and otherwise as shall be agreed by the Authority and the local board of education. The issuance of any warrant or warrants hereunder and the terms thereof shall be subject to the prior approval of the State Superintendent of Education. Warrants issued to the Authority by any local board of education hereunder shall be sold at the par amount thereof and shall bear interest at such rate or rates and shall have such maturity or maturities, not in excess of 20 years, as shall be agreed by the Authority and local board of education and approved by the State Superintendent of Education as aforesaid. No such warrant shall be a general obligation of the local board of education but shall be payable solely from the distributions of capital funds made to such local board of education from the public school fund pursuant to Section 16-13-234, Code of Alabama 1975. Notwithstanding any existing statute or provision of law to the contrary, any local board of education is hereby empowered to pledge to the Authority as security for such warrants, and to pay over to the Authority to the extent of its payment obligations thereunder, monies derived from such distributions of capital funds from the public school fund as to which such local board of education shall thereafter be entitled for the fiscal year in which such payment shall be due. Amounts derived by local boards of education from the issuance of such warrants as aforesaid shall be used first to acquire capital improvements needed to eliminate portable and sub-standard classrooms and then for other purposes as approved by the Authority and by the State Superintendent of Education. The State Treasurer and the State Comptroller are hereby authorized and directed to take such actions as shall be

necessary to facilitate the terms of any loan agreement between a board of education and the Authority respecting the direct payment from time to time to the Authority of capital funds due such board from the public school fund to the extent necessary to fund such board's obligations evidenced by its warrant or warrants issued to the Authority pursuant hereto.

Section 11. Tax Exemption. The Authority shall have the power to make such payments to the United States of America as the board of directors of the Authority deems necessary to cause the interest on any bonds of the Authority to be and remain exempt from federal income taxation. The Authority shall have the power to make agreements respecting the investment of funds of the Authority necessary in order that the interest income on bonds of the Authority be and remain exempt from federal income taxation.

Section 12. Issuance Expenses; Contracts and Appointments. The Authority is authorized to pay out of proceeds of any series of Bonds the costs and expenses incurred in connection with the issuance of such Bonds, including without limitation legal and accounting fees and expenses, fees and expenses of any financial or fiscal advisor employed by the Authority, printing costs, rating agency fees, and premiums or charges for any credit enhancement or liquidity providers. Notwithstanding any provision of this act or the 1965 Act, in appointing, employing, or contracting with attorneys, fiscal advisers, trustees, paying agents, investment bankers, banks and underwriters, the Authority may appoint, employ or contract with firms whose principal offices are located without and/or within Alabama. The Authority shall attempt to hire or contract with businesses or individuals which reflect the racial and ethnic diversity of the State.

Section 13. Use of Loan Repayment Amounts. All amounts paid to the Authority by or for the benefit of any county or city board of education in payment of amounts owed in respect of warrants issued by such boards to evidence loans of proceeds of Bonds authorized to be issued pursuant to subsection (b) of Section 3 of this act shall promptly upon receipt by the Authority be deposited with the State Treasurer to the credit of the Trust Fund for use pursuant to appropriation in carrying out the purposes for which the Trust Fund was established.

Section 14. Implementation of Capital Vitalization Plan of 1998. (a) It is the intent of the Legislature that through the issuance of the Bonds authorized to be issued pursuant to Section 3 of this act, the Capital Vitalization Plan of 1998 shall be implemented to provide for capital improvements in public education in accordance with the purposes established by Section 16-13-230 et

seq., Code of Alabama 1975 (Foundation Program Fund), for each local board of education to complete its comprehensive, long range K-12 Capital Plan and to make satisfactory progress in implementing the K-12 Capital Plan so as to provide adequate public school facilities for all K-12 students.

(b) Each local board of education shall eliminate portable and sub-standard classrooms presently in place not later than the school year commencing within two (2) years of the receipt of any loan proceeds provided to such board of education under Section 10 of this act for that purpose unless additional time to eliminate such use is granted by the State Superintendent of Education upon approval of the State Board of Education for good cause shown; and said local boards of education and the Authority shall take all actions necessary to ensure that the funds to be provided for the purposes for which Bonds are authorized to be issued under this act, along with such other capital funds as may be available for such purpose, shall be expended in such manner as shall be consistent with such intent and to carry out the Capital Vitalization Plan of 1998. In no event shall the Authority loan any monies derived from proceeds of Bonds issued pursuant to subsection (b) of Section 3 of this act to any local board of education except in accordance with the purposes of the Capital Vitalization Plan of 1998 or upon a showing that the local board of education requesting such loan shall have theretofore used other funds available to it, including distributions of capital funds from the public school fund, to accomplish such purposes.

(c) Upon the effective date of this act, no additional portable classrooms shall be put into use by a local board of education unless authorized in writing by the State Superintendent of Education. The authorization shall be for a limited period of time as determined by the State Board of Education, and the use of the portable classroom(s) shall be in accordance with the local board of education's K-12 Capital Plan's Annual School Capital Planning Process to provide permanent, safe and acceptable classroom teaching space for all of its students.

(d) The State Superintendent of Education shall give a status report to the Legislature annually during budget hearings on each school system's progress in eliminating substandard classrooms, including the number of portable classrooms still being utilized as academic classrooms.

(e) The expenditure of funds provided for in this act for any purpose other than those purposes for which Bonds may be issued under this act shall constitute a Class A misdemeanor.

Section 15. Severability. In the event any section, sentence, clause or provision of this act shall be declared invalid by a court

of competent jurisdiction, that action shall not affect the validity of the remaining sections, sentences, clauses, or provisions of this act, which shall continue effective.

Section 16. **Effective Date.** This act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 22, 1998

Time: 3:15 P.M.

Act No. 98-374

S. 411 – Senator Mitchem

AN ACT

Relating to the personnel records of education employees; to provide for reasonable access by the employees; to ensure that the employees shall be able to answer or respond to derogatory materials placed in their files; to affirm the privacy rights of and public access to public education employee personnel files; and to establish other procedures and regulations pertaining to education employees' personnel files.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) **Definitions.** When used in this act, the following words shall have the following meanings:

(1) **EMPLOYEE.** Any person employed by a school board.

(2) **EXECUTIVE OFFICER.** The superintendent of any public county or city school system; the President of the Alabama Institute for Deaf and Blind; the president of any two-year school or college under the auspices of the State Board of Education; the Superintendent of the Department of Youth Services School District; the Executive Director of the Alabama School of Fine Arts; and the Executive Director of the Alabama School of Mathematics and Science.

(3) **LOCAL EDUCATION AGENCY PERSONNEL SYSTEM (LEAPS).** The data base established and maintained by the Alabama Department of Education for record keeping of all data related to certificated and non-certificated personnel at each board of education.

(4) **PERSONNEL AND ENROLLMENT REPORTING SYSTEM (PERS).** The data base established and maintained by the Alabama Department of Postsecondary Education for record keeping of all data related to personnel and enrollment at postsecondary institutions.

(5) **PERSONNEL RECORD.** All records, information, data, or materials pertaining to an employee kept by the executive officer

of the school board or other employees of the school board in any form or retrieval system whatsoever.

(6) **SCHOOL BOARD or BOARD OF EDUCATION or BOARD.** As applied to employees in the public schools, grade kindergarten through grade 12, any county or city board of education; the Board of Trustees of the Alabama Institute for Deaf and Blind; the Alabama Youth Services Board in its capacity as the Board of Education for the Youth Services School District; the Board of Directors of the Alabama School of Fine Arts; the Board of Directors of the Alabama School of Mathematics and Science; and, as applied to two-year postsecondary education institutions only, the State Board of Education.

(b) **Establishment and Maintenance of Records.** Each board shall establish and maintain a personnel file on each employee. It shall be the responsibility of the executive officer of each school board to supervise the maintenance of personnel files and to maintain updated, complete, and accurate records.

(c) **Employee Access and Response.** The employee, or any person designated in writing by the employee, may, upon request, review all of the contents in his or her personnel file and receive copies of any documents contained in the file. No document shall be withheld from the employee or his or her representative. A representative of the employee may accompany him or her during the personnel file review. The employee may answer or object in writing to any material in his or her file and the answer or objection shall be attached to the appropriate material.

(d) **Public Access.** This section is supplemental to the statutes which apply to the public's access to government records. Public access to school personnel files is affirmed subject to the privacy rights rulings of the various federal and state courts

(e) **Work Performance Records.** Any materials pertaining directly to work performance may be placed in the record of the employee and a copy of the materials shall be provided to the employee. Statements, reports, and comments relating to work performance, disciplinary action against the employee, suspension of the employee, or dismissal of the employee shall be reduced to writing and signed by a person reasonably competent to know the facts or make a judgment as to the accuracy of the subject information. Additional information related to the written materials previously placed in the personnel file may be attached to the material to clarify or amplify them as needed. A copy of all materials to be placed in an employee's record which may tend to diminish the employee's professional or work status or reflect adversely on the employee's record of performance or character shall be provided to the employee.

(f) **Anonymous Materials.** Any anonymous complaint or material received by a school official shall be immediately transmitted to the executive officer. If the material is deemed worthy of an investigation by the executive officer, it may be investigated. The results of the investigation shall be reduced to writing, signed by the executive officer, principal, or other designated official in charge of the complaint, dated, attached to the material in question, and placed in the personnel file of the employee. Any anonymous complaint which is not investigated within 30 calendar days of its receipt by the executive officer shall not be retained, but shall be destroyed.

(g) **Transfer of Information.** Notwithstanding any other provision in this act to the contrary, the following provisions shall apply:

(1) The transfer of the personnel file or any parts, summation, or copies of the personnel file of the employee shall be effectuated upon the written request of the employee.

(2) The employer may transfer an employee's personnel file or copies or parts thereof to another employer or prospective employer.

(3) The provisions contained in Section 16-22-6, Code of Alabama 1975, shall remain in effect. Payroll deductions which the employee has authorized shall continue effective.

(4) Any documents which may be lawfully contained in the personnel file of an employee shall be made available to a lawfully authorized hearing officer or panel conducting an investigation into the competency or performance of the employee, and to all appropriate law enforcement officials. Statistical information on employees and former employees may be transmitted to the Department of Archives and History and to the State Department of Education for historical research and information.

(h) **Policies.** Written policies established by a school board pertaining to personnel files which are not inconsistent with this act may remain in effect, consistent with Section 16-1-30, Code of Alabama 1975.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective upon its passage and approval by the Governor or upon its otherwise becoming a law, and shall be implemented by each school board no later than September 1, 1998.

Approved April 24, 1998

Time: 8:15 A.M.

Act No. 98-375

H. 339 – Rep. Hooper

AN ACT

To amend Section 14-2-12 of the Code of Alabama 1975, as amended by Section 2 of Act 97-950 of the 1997 First Special Session, to provide further for the procedure for issuance of a certain amount of additional bonds by the Alabama Corrections Institution Finance Authority.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 14-2-12 of the Code of Alabama 1975, as amended by Section 2 of Act 97-950 of the 1997 First Special Session is amended further to read as follows:

“§14-2-12.

“For the purpose of providing funds for the acquisition of sites, for the construction, reconstruction, alteration and improvement of facilities, for the procurement and installation of equipment therefor and for payment of obligations incurred and the principal of and interest on any temporary loans made for any of the said purposes, the authority is hereby authorized, from time to time, to sell and issue, in addition to all bonds heretofore authorized to be issued by the authority, its bonds in such aggregate principal amounts as may be determined by the corporation to be necessary for the said purposes but not to exceed \$25,000,000, plus an additional seven million five hundred thousand dollars (\$7,500,000) pursuant to Act 97-950, in aggregate principal amount.

Any bonds issued pursuant to this section, as amended by Act 97-950, shall be sold by competitive bid using a financial institution whose principal office is located in Alabama as the financing agent.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1998

Time: 8:16 A.M.

Act No. 98-376

H. 20 – Reps. Hawkins, Curry,
Knight (A) and Gaines

AN ACT

To amend Section 16-13-234, Code of Alabama 1975, to provide that the hold harmless provision regarding K-12 public school funding shall not terminate after four years.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-13-234, Code of Alabama 1975 is amended to read as follows:

“§16-13-234.

“(a) In making apportionment of the public school fund held by the state, to the local boards of education, the State Superintendent of Education shall first set apart and distribute to the schools of each township the amount due from the state thereto as interest on its sixteenth section fund, or other trust fund held by the state.

“(b) It is the intent of the Legislature to insure that no local board of education receive less state funds per pupil than it received in fiscal year 1994-95. For this reason the Foundation Program for each local board of education shall be supplemented, if necessary, by a hold harmless allowance. The base amount of each local board's hold harmless allowance calculation is the 1994-95 program cost as defined herein. The 1994-95 program cost of each local board of education was determined by using the first forty scholastic days of average daily membership from 1993-94. Beginning with the fiscal year 1995-96, the hold harmless allowance calculation shall be the current year Foundation Program state allocation, including allocated public education employees' health insurance plan reserves, less the fiscal year 1994-95 program cost as defined herein. The fiscal year 1994-95 program cost is defined as including the local boards of education allocations for kindergarten through grade twelve plus fringe benefits including public education employees' health insurance plan reserves and the public school fund less the transportation allowance

“(c) Beginning with the fiscal year 1995-96, the first cost to the public school fund, after complying with the provisions of subsection (a), shall be the hold harmless allowance. The hold harmless calculation shall continue until no local board of education receives less funds per pupil than it received in fiscal year 1994-95. However, this hold harmless allowance shall terminate not later than September 30, 2002.

“(d) It is the intent of the Legislature that funds shall be provided to local boards of education in addition to Foundation Program funds to provide continuing funding to provide for soundness and adequacy of public school facilities in Alabama. To that end the remainder of the public school fund after deducting the costs pursuant to subsections (a) and (c) shall be available to the local boards of education for capital outlay projects, including the planning, construction, reconstruction, enlargement, improvement, repair or renovation of public school facilities, for the purchase of land for public school facilities and for the acquisition and/or purchase of education technology and equipment.

“(e) It is the intent of the Legislature that the distribution of capital funds for the purpose of capital purchases from the Public School Fund be made to all school systems, require a variable matching with

local funds based on yield per mill per average daily membership of district property tax, and guarantee the same amount per student in each system for capital purchases from the total of state and matching local funds. The State Superintendent of Education shall allocate the available funds pursuant to the rules adopted by the State Board of Education. Also, to receive funds from this appropriation, the local board of education must develop a comprehensive, long range capital plan addressing the facility, educational technology and equipment needs of the local board of education, pursuant to the rules adopted by the State Board of Education. The goal of this program is to have each local board of education complete its comprehensive, long range capital plan and begin making satisfactory progress in implementing the plan for providing adequate public school facilities for all students.

“(f) In addition to rules adopted by the State Board of Education and used by the State Superintendent of Education in the distribution of said funds, it is the intent of the Legislature to impose the following. For fiscal year 1996 a school system may elect to use up to 100 percent of its matched capital purchase funds for serving at-risk students as defined by the State Board of Education or a legislative approved definition. For fiscal year 1997 a school system may elect to use up to 75 percent, in fiscal year 1998 up to 50 percent, and in fiscal year 1999 up to 25 percent. It is the intent of the Legislature that beginning in fiscal year 2000, all public school funds must be used for capital purchases as specified in subsection (e) above. School systems electing to expend their allocations of capital purchase funds on at-risk student programs pursuant to this subsection shall expend those funds for effective programs and tutorial assistance programs that include but shall not be limited to after school, Saturday, and/or summer school; provided, that such programs shall be outside of the normal day school.”

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 24, 1998

Time: 8:17 A.M.

Act No. 98-377

H. 717 – Rep. Venable

AN ACT

To amend Section 16-4-15, Code of Alabama 1975, relating to the requirement for taking a school census, to provide further for the dates of taking the census.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-4-15, Code of Alabama 1975, is amended to read as follows:

“§16-4-15.

“(a) The State Superintendent of Education shall prepare, or cause to be prepared, and submit for approval and adoption by the State Board of Education rules and regulations for the taking of a decennial school census of all children in the state between six and 16 years of age, also the forms and blanks to be employed in taking such census and in compiling the reports thereon. The next school census shall be taken in 2008 and every 10 years thereafter, and the State Superintendent of Education may cause the whole or any part of the school census of any county or of any city to be retaken at any time, if, in the judgment of the State Superintendent of Education, the whole or any part of the census has not been properly taken.

“(b) Should a constitutional amendment removing the requirements of the school census be ratified by the people, the provisions of this section thereby shall be automatically repealed without further action required of the Legislature.”

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 24, 1998

Time: 8:18 A.M.

Act No. 98-378

H. 318 – Reps. Fuller, Hall (L), Knight (J),
Carothers, Hammett,
Clark (J), McDaniel, Turnham,
Lindsey, McMillan, Flowers,
Kennedy, Turner, Allen, Wren,
Venable, Smith, Morrison,
Sanderford, Gipson, Collins,
Dolbare, Hooper, Buskey, Page,
Seibenhener and Pringle

AN ACT

To propose an amendment to the Constitution of Alabama of 1901 authorizing the issuance of general obligation bonds of the State of Alabama in aggregate principal amount not exceeding \$52,000,000 for the purpose of providing, equipping and improving permanent facilities in the State for the use as animal diagnostic laboratories, for agricultural and forestry research and education and for the provision of instruction and research in the field of veterinary medicine in order to provide improved animal health testing for livestock and poultry producers, veterinarians, animal owners and animal-related businesses generally, improved facilities for agricultural and forestry research and education and new facilities for the provision of instruction and research in the field of veterinary medicine.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and upon proclamation of the Governor.

PROPOSED AMENDMENT

“The State of Alabama is authorized to become indebted for the purpose of providing, equipping and improving facilities for the provision of animal and livestock diagnostic services and for use as educational, research and promotional facilities in the fields of agriculture, forestry and veterinary medicine, and in evidence of the indebtedness so incurred to sell and issue bonds, in addition to all other bonds of the State, not exceeding \$52,000,000 in aggregate principal amount. Said bonds shall be direct general obligations of the State and the full faith and credit and taxing power of the State are hereby pledged to the prompt and faithful payment of the principal thereof and the interest thereon. The proceeds from the sale of said bonds are hereby appropriated and shall be used exclusively for the purpose of paying the expenses incurred in the sale and issuance thereof and for payment of the costs of the construction, alteration, improvement, remodeling, renovation, modernization, enlargement and equipment of buildings and related facilities, including parking areas and ramps, roadways, sewers, curbs, and gutters, but not including the purchase of sites therefor, for use (1) as animal diagnostic laboratories in order to provide improved animal health testing for livestock and poultry producers, veterinarians, animal owners and animal-related businesses generally, (2) in carrying out agricultural and forestry research and for agriculture and forestry, plant science and nursery crop education at post-secondary levels, (3) in the provision of instruction and research in the field of veterinary medicine and (4) in providing agricultural extension services at regional research extension centers. Said bonds shall be issued by the State pursuant to appropriate resolutions adopted by the board of directors of Alabama Agricultural Development Authority, and the proceeds thereof shall be allocated by said Authority for payment of the aforesaid costs in such amounts and manner as shall be authorized by act of the legislature. Such buildings and facilities and improvements thereto shall be constructed at the direction of said Authority and shall thereafter be operated by or in cooperation with the State’s Morrill Act land grant universities and those institutions eligible to receive federal appropriations in support of agriculture and forestry extension and research and for the acquisition and improvement or agricultural and food sciences facilities and equipment and such other agencies and institutions as the said Authority shall determine to be appropriate and convenient therefor.

“The State of Alabama is further authorized to become indebted and in evidence thereof to sell and issue one or more series of bonds to refund all or any of the bonds hereinabove authorized by this amendment in such principal amount or amounts (which may exceed the principal amount of the bonds being refunded) and in such manner as may be provided by law duly enacted by the legislature.

“The aforesaid Authority is hereby vested with the power and Authority to provide for the sale and terms of the bonds hereby authorized and the issuance thereof, subject to the approval of the Governor. The bonds may be sold, executed and delivered at any time and from time to time, may be in such forms, denominations, series and numbers, may be of such tenor and maturities, may bear such date or dates, may be payable in such installments and at such place or places, may bear interest at such rate or rates payable and evidenced in such manner, and may contain provisions for redemption at the option of the State to be exercised by said Authority at such date or dates prior to their maturity and upon payment of such redemption price or prices, all as shall be provided by the said Authority in the resolution or resolutions whereunder the bonds hereby authorized are issued. The principal of each series of bonds shall mature on such date in such amounts as shall be specified in the resolution or resolutions of the board of directors of the said Authority under which they are issued, the last of which installments shall mature not later than twenty-one years after the date of the bonds of the same series. All of the bonds (including refunding bonds) shall be sold only at public sale or sales, either on sealed bids or at public auction, after such advertisement as may be prescribed by the said Authority, to the bidder whose bid reflects the lowest true interest cost to the State computed to the respective maturities of the bonds sold; provided, that if no bid deemed acceptable by the said Authority is received all bids may be rejected.

“The bonds shall be signed in the name of the State by the Governor and countersigned by the chairman of the said Authority and the Great Seal of the State of Alabama or a facsimile thereof shall be impressed, printed or otherwise reproduced thereon and shall be attested by the signature of the Secretary of State; provided that facsimile signatures of any or all of said officers may be reproduced on such bonds in lieu of their manually signing the same.

“All bonds issued under the provisions of this amendment, together with the interest income thereon, shall forever be exempt from all taxation in the State, except inheritance, estate and gift taxes.

“The proceeds from the sale of those bonds hereby authorized (other than refunding bonds), after the payment of all expenses of the

sale thereof, shall be set apart in a special fund in the state Treasury to be designated "The Alabama Agricultural, Forestry and Veterinary Medicine Facilities Improvement Fund," and such proceeds shall be temporarily invested until needed and disbursed, together with income derived from the investment and reinvestment thereof, on order of the aforesaid Authority solely for the purposes, hereinabove described, for which said bonds are authorized to be issued. Proceeds and said income so disbursed may be combined with monies derived from other sources or otherwise provided by State institutions in accomplishing said purposes in such manner as said Authority shall direct, but the provision or existence of matching funds from the federal government or other entities or persons shall not be a prerequisite to the issuance of any bonds hereunder or to the disbursement of any proceeds thereof or any income earned on such proceeds.

"No further authorizations from the legislature shall be a prerequisite to the validity of any bonds issued hereunder. However, the legislature shall enact appropriate legislation implementing the provisions hereof, including provisions for the issuance of refunding bonds as hereinabove authorized."

Section 2. Unless otherwise provided by the legislature, an election upon the proposed amendment is ordered to be held on the first Tuesday after the expiration of three months from final adjournment of the current session of the legislature. The election shall be held in accordance with the provisions of Section 284 and 285 of the Constitution of Alabama of 1901, as amended.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, as amended, authorizing the issuance, sale, and refunding of general obligation bonds of the State of Alabama of up to \$52,000,000 for the purposes of providing, equipping, and improving facilities relating to animal and livestock diagnostic services and for use as educational, research and promotional facilities in the fields of agriculture, forestry, and veterinary medicine.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House February 26, 1998 as amended

Passed the Senate April 16, 1998

Act No. 98-379

S. 560 – Senator Little

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to authorize Lee County and the City of Opelika to perform certain actions for the purpose of economic and industrial development.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

For the promotion of local economic and industrial development, the Lee County Commission and the City Council of the City of Opelika, any other provision of law or of this Constitution notwithstanding, shall have, independently or in cooperation with one another, full and continuing power to do any of the following:

(1) Use public funds to purchase, lease, or otherwise acquire land, or to utilize land heretofore purchased or otherwise acquired, and improve and develop such land for use as sites for industry of any kind or as industrial park projects, including, but not limited to, grading and the construction of roads, drainage, sewers, sewage and waste disposal systems, parking areas, and utilities to serve such sites or projects.

(2) Lease, sell, grant, exchange, or otherwise convey, on terms approved by the governing body of the county or the City of Opelika, as applicable, all or any part of any site or industrial park project to any individual, firm, corporation, or other business entity, public or private, including any industrial development board or other public corporation or authority heretofore or hereafter created by the county or any municipality therein, for the purpose of constructing, developing, equipping, and operating industrial, commercial, research, or service facilities of any kind.

(3) Lend its credit to or grant public funds and things of value in aid of or to any individual, firm, corporation, or other business entity, public or private, for the purpose of promoting the economic and industrial development of Lee County or the City of Opelika.

In carrying out the purposes of this amendment, neither Lee County nor the City of Opelika shall be subject to Sections 93 or 94 of this Constitution. Each public corporation heretofore created by Lee County or by the City of Opelika, including specifically any industrial development board incorporated under Chapter 54, Article 4, Title 11 of the Code of Alabama 1975, and any industrial

development authority incorporated or reincorporated under Chapter 92A, Title 11 of the Code of Alabama 1975, is validated and the powers granted to such board or authority under its respective enabling legislation are validated notwithstanding any other provision of law or of this Constitution. The powers granted in this amendment may be exercised as an alternative to, or cumulative with, and in no way restrictive of, powers otherwise granted by law to the county, or to any municipality, or to any agency, board, or authority created pursuant to the laws of this state.

Neither Lee County nor the City of Opelika shall lend its credit to or grant any public funds or thing of value to or in aid of any private entity under the authority of this amendment unless prior thereto: (i) the action proposed to be taken by Lee County or the City of Opelika is approved at a public meeting of the governing body of the county or city, as the case may be, by a resolution containing a determination by such governing body that the expenditure of public funds for such purpose will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities; and (ii) at least seven days prior to the public meeting, a notice is published in the newspaper having the largest circulation in the county or in the city, as the case may be, describing in reasonable detail the action proposed to be taken, a description of the public benefits sought to be achieved by such action, and identifying each individual, firm, corporation, or other business entity to whom or for whose benefit the county or the city proposes to lend its credit or grant public funds or thing of value. For purposes of the foregoing, any sale, lease, or other disposition of property for a price equal to the fair market value thereof shall not constitute the lending of credit or a grant of public funds or thing of value in aid of a private entity.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Lee County, proposing an amendment to the Constitution of Alabama of 1901, to authorize Lee County and the City of Opelika to perform certain actions for the purpose of economic and industrial development.

Proposed by Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

Section 4. It is the intent of this proposed Amendment to the Constitution of Alabama of 1901 that any and all economic and industrial development created pursuant to this Amendment passage be basically utilized for the creation of full-time economic employment opportunities.

CONSTITUTIONAL AMENDMENT

Passed the Senate as amended March 17, 1998

Passed the House as amended April 8, 1998

Senate concurred in House amendment April 15, 1998

Act No. 98-380

H. 738 – Reps. Turnham, Flowers
and Newton (C)

AN ACT

To exempt the Service Guild of Birmingham, Incorporated, Early Intervention Program, from the payment of all state, county, and municipal sales and use taxes.

Be It Enacted by the Legislature of Alabama:

Section 1. The Service Guild of Birmingham, Incorporated, Early Intervention Program, is exempted from paying any state, county, and municipal sales and use taxes.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 27, 1998

Time: 10:59 A.M.

Act No. 98-381

H. 19 – Rep. Hooper

AN ACT

Relating to the public schools; to provide a brief period of quiet reflection at the opening of school every day in each public school classroom; and to repeal Section 16-1-20.1, Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) The Legislature of Alabama finds that in the hectic society of today all too few citizens are able to experience even a moment of quiet reflection before plunging headlong into the activities of daily life. Young citizens are particularly affected by

the absence of an opportunity for a moment of quiet reflection. The Legislature finds that our young, and society as a whole, would be well served if students in the public schools were afforded a moment of quiet reflection at the beginning of each school day.

(b) At the opening of school every day in each public school classroom, the teacher in charge shall conduct a brief period of quiet reflection for not more than 60 seconds with the participation of every pupil in the classroom.

(c) The moment of quiet reflection authorized by subsection (b) is not intended to be and shall not be conducted as a religious service or exercise, but shall be considered an opportunity for a moment of silent reflection on the anticipated activities of the day.

(d) Subsections (b) and (c) shall not prevent student initiated voluntary school prayer at school or school related events which are nonsectarian and nonproselytizing in nature.

Section 2. All laws or parts of laws which conflict with this act are repealed, and Section 16-1-20.1 of the Code of Alabama 1975, is specifically repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 27, 1998

Time: 10:45 A.M.

Act No. 98-382

H. 92 – Reps. Hawk, Fuller, Gipson
and Hall (L)

AN ACT

Relating to the Children First Program; to establish the Children First Trust Fund within the State Treasury; to provide for the management and administration of the fund by the Alabama Juvenile Justice Coordinating Council; to appropriate the fund for allocations to the Department of Public Health for the Children's Health Insurance Program and for prevention, treatment, education, rehabilitation, and punishment programs for children, the State Board of Education, the Department of Human Resources, the Children's Trust Fund, the State Multiple Needs Children's Fund, the Department of Mental Health and Mental Retardation, the Administrative Office of Courts, the Department of Youth Services, the Department of Public Safety, the Alcoholic Beverage Control Board, and the Department of Forensic Sciences; and to provide for oversight by the Permanent Joint Legislative Oversight Committee of the Children First Trust Fund.

Be It Enacted by the Legislature of Alabama:

Section 1. For purposes of this act, the following terms have the meanings respectively ascribed to them:

(1) **AT-RISK CHILDREN.** Children who because of social, health, or educational factors are experiencing difficulty with learning, school achievement, or preparation for employment as evidenced by excessive absence from school without acceptable excuse, by virtue of being parents, by having been referred to the juvenile court, or by being one or more years behind their age group in the number of credits obtained or in basic skill levels obtained.

(2) **CHILD POPULATION.** The population of children below the age of 18 in any federal decennial census.

(3) **COUNCIL.** The Alabama Juvenile Justice Coordinating Council created pursuant to Sections 12-15-130 to 12-15-132, inclusive, Code of Alabama 1975.

(4) **FUND.** The Children First Trust Fund as established by Section 2 of this act.

(5) **JUVENILE PROBATION SERVICES.** Any juvenile probation officer, including, but not limited to, administrative personnel, juvenile officers who supervise caseloads, professional staff charged with developing programs for early intervention and correction of delinquent behavior, and officers assigned to intensively supervise juveniles returning from regional or state institutions. Juvenile probation services do not include juvenile detention staff.

(6) **OVERSIGHT COMMITTEE.** The permanent Joint Legislative Oversight Committee of the Children First Trust Fund.

(7) **RURAL.** Any community within this state that has a population of less than 25,000 according to the latest federal decennial census.

(8) **SPECIAL NEEDS ADOPTIONS.** Adoptions that may be hindered or delayed because of the special circumstances or obstacles surrounding the adoptive children. The circumstances include, but are not limited to, the adoption of disabled children, children with multiple siblings, older children, minority children, and other children who have been in the custody of the Alabama Department of Human Resources for an extended period of time.

(9) **TOBACCO REVENUES.** Revenues received by the state pursuant to any federal tobacco-related settlement, any tobacco-related appropriations made by the United States Congress to the State of Alabama, or any revenues received by the state from litigation against any tobacco-related industry.

Section 2. (a) There is established a special fund in the State Treasury to be known as the Children First Trust Fund.

(b) The existence of the fund is contingent upon the receipt by the state of tobacco revenues. The fund shall be appropriated to the Alabama Juvenile Justice Coordinating Council for purposes of providing allocations to intensive child and family programs and for purposes of implementing and administering this act.

(c) The fund shall consist of tobacco revenues and any appropriations or revenues received from any other source. An amount of up to and including eighty-five million dollars (\$85,000,000) shall be deposited into the fund from tobacco revenues with the remainder of the tobacco revenues being deposited into the State General Fund.

(d) The council shall receive and distribute monies in the fund for purposes that shall be consistent with this act and with the laws of this state.

(e) The council shall keep detailed permanent records of all expenditures and distributions from the fund and shall file a monthly written report of all transactions, and any other information requested, with the permanent Joint Legislative Oversight Committee of the Children First Trust Fund.

(f) The council shall prepare an annual report to the Legislature detailing the expenditures and distributions from the fund and the success or failure of each program receiving monies from the fund. The council shall also make annual recommendations to the Legislature concerning the distribution of monies based upon the annual report.

(g) The council may employ personnel as needed to assist the council in carrying out the duties of administering these funds and preparing the reports.

(h) The council may accept and use monies available to it from all sources, including, but not limited to, grants, appropriations, gifts, donations, and other sources for purposes of implementing and administering this act. The proceeds of any gift, grant, or other donation may be specifically designated for use in one or more specific program area identified and described in the Children First implementation program.

(i) The council may not award or promise to award more monies than are available in the fund.

(j) Any conflicting prior law notwithstanding, the Governor, or the Attorney General with the consent of the Governor, shall file any litigation necessary to effectuate the compelling interest of the State of Alabama to recover tobacco-related damages incurred by the state or pursue any other legal cause of action in which the state has an interest.

(k) No monies shall be withdrawn or expended from the fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this act. Any monies appropriated shall be budgeted and allotted pursuant to the Budget Management Act in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41, Code of Alabama 1975, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act for the purposes prescribed in this act and as allocated by this act.

(l) Any monies remaining in the fund at the end of any fiscal year, except monies contributed from appropriations from other state funds, shall not revert to the General Fund or the Alabama Education Trust Fund and shall remain in the Children First Trust Fund.

Section 3. The following criteria shall be met in order for any state agency or local entity to be eligible to receive allocations from the Children First Trust Fund:

(1) After the first year, these state agencies shall annually conduct a needs assessment of the children of Alabama and shall develop and implement a strategic plan which addresses the special needs of children. The purpose of this plan is to alleviate duplication of services. The plan and evaluation of results of programs shall be submitted to the council by July 1.

(2) Each county juvenile justice coordinating council shall comply with Sections 12-15-133 and 12-15-134, Code of Alabama 1975, and shall be actively involved in the coordination of requests for grants funded by Children First Trust Fund.

Section 4. (a) For the fiscal year beginning October 1, 1998, contingent upon the Children First Trust Fund receiving tobacco revenues, an amount of up to and including two hundred twenty-five thousand dollars (\$225,000), or equivalent percentage of the total fund, shall be designated for the administration of the fund by the council.

(b) For the fiscal year beginning October 1, 1998, contingent upon the Children First Trust Fund receiving tobacco revenues, the remainder of the Children First Trust Fund, an amount of up to and including eighty-five million dollars (\$85,000,000), shall be allocated as follows:

(1) Ten and one-half percent of the fund shall be allocated to the Department of Public Health for distribution as follows:

a. Ninety-four percent of the funds allocated to the Department of Public Health shall be allotted to the Children's Health Insurance Program.

b. Six percent of the funds allocated to the Department of Public Health shall be allotted to fund programs for tobacco control among children with the purpose being to reduce the consumption of all tobacco products by children. To be eligible to initially receive a portion of these funds, any county health department, school, local civic club, charity, or not-for-profit corporation shall submit a grant application pursuant to the guidelines promulgated by the State Department of Public Health, with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness, number of children served, and financial accountability shall be included in the guidelines. The Department of Public Health may employ personnel to carry out the purposes of this section and may not expend these funds for any purpose other than those set out in this section.

(2) Twenty-two percent of the fund shall be allocated to the State Board of Education as follows:

a. Fifty-six percent of the funds allocated from the fund to the State Board of Education shall be allotted for the operation of alternative schools as defined below:

1. In the initial fiscal year funding after the effective date of this act, the State Board of Education shall distribute a pro rata share of the monies based upon the second month enrollment of the preceding school year to each local board of education which submits a plan that satisfies all of the following criteria:

(i) The local board of education shall provide a 25 percent match of all funds for alternative school programs.

(ii) The local board of education shall provide suitable facilities for housing alternative school programs.

(iii) The plan submitted by each local board of education shall **provide multiple tiers of alternative school programs** which include, but are not limited to, "in-school suspension," a short-term alternative school program designed to enable children to perform in the traditional classroom setting, and a long-term program which is a true alternative to expulsion.

(iv) The plan as submitted by each local board of education shall outline the educational services which shall be available to each child assigned to the short-term or long-term programs. Those services shall include, but are not limited to, all of the following:

A. Remedial education where necessary.

B. Counseling, including sessions on conflict resolution.

C. Social skills development.

(v) Each tier of the local plan shall be curriculum-based to address the goal of academic improvement and shall include, to the extent possible, mandatory parental notification and involvement.

(vi) If a local board of education can satisfactorily demonstrate that alternative school programs meeting all of the criteria in this section have been implemented, the allocation to the local board of education for alternative school programs may be directed by the State Board of Education to programs under the School Safety Enhancement Program.

(vii) Each year any monies remaining after distribution by the State Board of Education to the local boards of education which meet the criteria pursuant to subparagraph 1. and qualify for a portion of the monies, shall be allocated to those local boards of education demonstrating innovative programs with measurable improvements in academic achievement, attendance, school behavior, and parental involvement.

2. The State Board of Education shall review the programs of each local board of education receiving monies from the fund and shall annually submit a report to the council by July 1. This report shall include all of the following:

- (i) The number of children served in each tier of the program.
- (ii) The improvement in academic achievement.
- (iii) The improvement in behavior.
- (iv) The improvement in parental involvement.

(v) Financial accounting for the state and local monies expended.

3. The State Board of Education shall develop additional criteria for continued state funding of programs initiated pursuant to this act.

4. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

b. 1. Forty-four percent of the funds allocated from the fund to the State Board of Education shall be allotted to administer the School Safety Enhancement Program. The amount of monies available to each local board of education shall be determined by the State Board of Education based upon the second month enrollment of the preceding school year. To be eligible to initially receive a portion of the monies, each local board of education shall submit a grant application pursuant to guidelines promulgated by the State

Board of Education with provisions for annual renewal of the grants. Provisions for program evaluation in order to determine effectiveness and financial accountability shall be included in the guidelines. The guidelines shall include all of the following:

(i) A component to enhance parental participation in school activities and promote parental responsibility for the performance and behavior of their children.

(ii) A requirement for a local 25 percent match of funds for school safety activities, excluding pre-kindergarten programs for at-risk children listed in item (ii) of subparagraph 2.

(iii) Sufficient safeguards implemented to ensure that the new monies will increase and not supplant or decrease existing local support.

2. School Safety Enhancement Programs eligible for grants shall be designed to prevent or reduce violence in the schools and communities and reduce school disciplinary or safety problems. The programs shall relate to one or more of the following:

(i) Extended day programs with supervised activities including, but not limited to, remedial education; tutorial assistance; arts, music, or other cultural enhancement; and activities for gifted children. Each local board of education may charge a fee based upon income for participation in the programs.

(ii) Pre-kindergarten programs for "at-risk" children. These programs do not require the local 25 percent match of funds for school safety activities mandated by item (ii) of subparagraph 1.

(iii) Truancy prevention programs which may include additional school attendance personnel and a Saturday school component.

(iv) Programs to assist children in dealing with anger and emphasizing acceptable ways of dealing with violence including peer mediation, conflict resolution, and law related education.

(v) Safety plans involving the use of metal detectors, other security devices, uniforms, school safety resource officers, or other personnel employed to provide a safe school environment.

(vi) Drug or alcohol education, prevention, detection, or enforcement programs.

(vii) At-risk identification and intervention programs designed to identify children who are at-risk and coordinate school and community services so that the mental, physical, and social capabilities of the child are enhanced.

3. The State Board of Education shall review the programs of each local board of education which receive monies from the fund and annually submit a report to the council by July 1. This report shall include all of the following:

- (i) The number of children served.
- (ii) The improvement in academic achievement.
- (iii) The improvement in behavior.
- (iv) The improvement in parental involvement.
- (v) Financial accounting for the state and local monies expended.

4. The State Board of Education shall develop criteria for continued state funding of programs initiated pursuant to this act.

(3) a. Twenty percent of the fund shall be allocated to the Alabama Department of Human Resources for distribution as follows:

1. Twenty-nine percent shall be allotted to increase foster care basic monthly maintenance rates to foster families.

2. Thirteen percent of the funds allocated to the Alabama Department of Human Resources shall be allotted to recruit and maintain additional therapeutic foster homes.

3. (i) Forty-six percent shall be allotted to Alabama Child Care Management Agencies to fund child care programs utilizing trained, qualified, and licensed child care facilities. These child care providers shall have specific emphasis on early intervention and nutrition services for all of the following:

A. The children of working parents who are income eligible as is defined by the guidelines of the Alabama Department of Human Resources for participation in the subsidized child care program.

B. The children of parents who have been unemployed and on public assistance but who have obtained employment and are income eligible as is defined by the guidelines of the Alabama Department of Human Resources for participation in the subsidized child care program.

C. The children of parents who are properly enrolled in Alabama public schools but have not yet completed school through grade level 12 and who are income eligible as defined by the guidelines of the Alabama Department of Human Resources for participation in the subsidized child care program.

(ii) The Alabama Department of Human Resources shall ensure that at least 25 percent of the funds allotted to Alabama

Child Care Management Agencies annually shall be allocated to those children indicated in subitem A. of item (i) and at least 25 percent of the funds allotted to Alabama Child Care Management Agencies annually shall be allocated to those children indicated in subitem C. of item (i).

4. Six percent of the funds allocated to the Alabama Department of Human Resources shall be allotted to increase rates and fund services through licensed shelter care and licensed residential foster homes.

5. Six percent of the funds allocated to the Alabama Department of Human Resources shall be allotted for use in special needs adoptions to assist in recruiting prospective adoptive parents, to facilitate the adoption of children with special needs, and to provide financial assistance to parents after adoption of these children.

b. Sufficient safeguards shall be implemented to ensure that these new monies will increase and not supplant or decrease existing support received from any source.

(4) Five percent of the fund shall be allocated to the Children's Trust Fund for distribution as follows:

a. Fifty percent of the funds allocated to the Children's Trust Fund shall be used to fund community-based programs providing unification of prevention services which shall include, but not be limited to, all of the following:

1. Parenting education.
2. Health screening for at-risk children.
3. Adult education classes.
4. Job readiness training.
5. Welfare-to-work programs.
6. Quality child care for participants.

b. Fifty percent of the funds allocated to the Children's Trust Fund shall be used to fund grants for community-based programs targeted toward "at-risk" children or teens with specific emphasis on plans, programs, and services to eradicate gangs, criminal behavior, illiteracy, teen unemployment, teen pregnancy, and single parent families pursuant to the guidelines of the Children's Trust Fund as provided in Sections 26-16-30 to 26-16-33, inclusive, Code of Alabama 1975.

(5) Five percent of the fund shall be allocated to the State Multiple Needs Children's Fund, pursuant to Section 12-15-174,

Code of Alabama 1975, to be allocated by the Alabama Children's Services Facilitation Team for services for multiple needs children in accordance with Sections 12-15-171 and 12-15-175, Code of Alabama 1975. The Alabama Children's Services Facilitation Team shall develop a written plan to address the needs of multiple needs children. Disbursements from the Multiple Needs Children Fund shall be based on the written plan. The monies allocated pursuant to this subdivision shall be distributed as follows:

a. Fifty percent of the monies allocated to the State Multiple Needs Children's Fund shall be allotted to the counties, based upon the per capita child population of each county, according to the 1990 federal decennial census, to provide services for multiple needs children identified by the county Children's Services Facilitation Team or referred by the juvenile court. These funds may be expended by a county Children's Services Facilitation Team to meet the needs of children for whom individualized service plans have been developed and approved and which are within the guidelines, policies, and procedures of the Alabama Children's Services Facilitation Team. Allotments to county children's services facilitation teams shall be disbursed quarterly

b. Fifty percent of the monies allocated to the State Multiple Needs Children's Fund shall be distributed to the Alabama Children's Services Facilitation Team for children whose needs exceed the resources available in the local community. These monies shall be used to purchase services or to develop services when a sufficient need can be documented.

(6) Five percent of the fund shall be allocated to the Department of Mental Health and Mental Retardation for distribution as follows:

a. Fifty percent of the funds allocated to the Alabama Department of Mental Health and Mental Retardation shall be used for the provision of community-based services for children and families in crisis. The department shall maintain standards and procedures to require that all staff members who provide services pursuant to this subdivision have the appropriate specialized training or experience, or both, to meet the needs of the children and families served.

b. Fifty percent of the funds allocated to the Alabama Department of Mental Health and Mental Retardation shall be used to fund intensive long term programs designed to change behavior and rehabilitate children with drug or alcohol problems or addictions. Private providers shall be utilized to the extent possible for these drug and alcohol treatment programs. A portion of the funds allocated pursuant to this paragraph shall be used to

fund halfway houses or other graduated release facilities for children with drug or alcohol problems or addictions.

(7) a. Ten percent of the funds shall be allocated to the Juvenile Probation Services Fund and administered by the Administrative Office of Courts to unify and upgrade the juvenile justice system and improve the delivery of services to children who have been referred to the juvenile court. The monies allocated to the Juvenile Probation Services Fund shall be allotted as follows:

1. Sixty-one percent of the funds allocated to the Juvenile Probation Services Fund shall be used to convert juvenile probation officers and support staff in counties with a population of 99,000 or less, according to the 1990 federal decennial census, and Mobile County to state employee status under the direction and supervision of the Administrative Office of Courts pursuant to the Juvenile Probation Services Improvement Act. These funds shall also be used to provide salary subsidies for juvenile probation officers in each county with a population of more than 99,000, on the basis of one salary subsidy per 15,000 population or a fraction thereof.

2. In the fiscal year ending September 30, 1999, 39 percent shall be used to fund additional juvenile probation services positions at the ratio of one position per population of 47,000 or a major fraction of that amount. At a minimum, each county shall receive at least one additional juvenile probation officer. Juvenile probation services positions shall include juvenile probation officers, professional staff charged with developing programs for early intervention and correction of delinquent behavior, and officers assigned to intensively supervise juveniles returning from regional or state institutions. Each county shall be allocated at least one additional juvenile probation officer subsidy for the fiscal year ending September 30, 1999.

b. In successive fiscal years, the percentage of monies received pursuant to this subdivision shall be allotted to the Juvenile Probation Services Fund to provide funding for juvenile probation services administered by the Administrative Office of Courts.

c. Each presiding juvenile court judge and chief juvenile probation officer shall jointly file a sworn statement on approved forms with the Administrative Office of Courts prior to July 1 of each year which shall contain a detailed listing of the general services provided by the juvenile probation staff to the children under their supervision. The services provided in each county shall include, but not be limited to, all of the following:

1. Programs to develop basic competency in social skills.

2. Truancy prevention programs.

3. Restitution collection programs.

4. Community service work programs.

5. Programs utilizing trained volunteers including mentor programs, volunteers in probation, and other programs.

6. Programs mandating parental accountability.

7. Intensive aftercare programs for children returning from regional or state institutions.

d. The responsibilities provided in this subdivision are supplemental to those provided in Section 12-15-7, Code of Alabama 1975.

(8) a. Seventeen percent of the revenues shall be allocated to the Department of Youth Services to fund through private providers where possible, secure beds, group homes, graduated release facilities, community-based alternatives to commitment to the Department of Youth Services, and for subsidies for regional detention facilities. The private providers shall develop an aftercare plan for each juvenile leaving the custody of the Department of Youth Services and shall be responsible for monitoring compliance with and completion of each plan. The Department of Youth Services Board shall develop criteria and an allocation formula to insure that monies received from the fund shall be equitably distributed to provide access to local juvenile offender programs for both urban and rural areas throughout the state. Of the funds allocated to the Department of Youth Services:

1. Forty-three percent shall be allotted for facilities for secure beds located in Mobile County and for graduated release facilities to integrate children from the Department of Youth Services secure facilities back into their local communities.

2. Forty-three percent shall be allotted for intensive programs to include, but not be limited to, wilderness programs of sufficient duration to change behavior, to develop self-reliance, and to develop a work ethic. Not less than 20 percent of these funds shall be designated for the treatment of juvenile sex offenders.

3. Seven percent shall be allotted for alternative programs which shall include, but not be limited to, bootcamps with a minimum required stay of 90 days, day-reporting centers, and intensive monitoring systems which are community-based.

4. Seven percent shall be allotted for subsidies for regional detention facilities.

b. The monies appropriated pursuant to this subdivision shall not be used for capital outlay. An annual accounting of the distribution of

the monies and the effectiveness of the programs shall be prepared by the Department of Youth Services and filed with the council prior to July 1. Sufficient safeguards shall be implemented to ensure that the new monies will increase and not supplant or decrease existing state or local support.

(9) Three and one-half percent of the funds shall be allocated to the Department of Public Safety to fund child pornography investigations conducted by the Alabama Bureau of Investigations.

(10) One percent of the funds shall be allocated to the Alcoholic Beverage Control Board for education and enforcement of Chapter 11 of Title 28, Code of Alabama 1975, which prohibits access to tobacco products by minors.

(11) a. One percent of the funds shall be allocated to the Department of Forensic Sciences to fund forensic services including, but not limited to, all of the following:

1. Investigation of child deaths where the child was not under the care of a physician, identification of missing children remains, analysis of forensic evidence associated with crimes where the victim is a child.

2. Provision of medical examiners for local child death review teams.

3. Education of medical students and resident physicians regarding fatal child abuse.

4. Provision of expert testimony in court cases involving forensic findings in criminal investigations.

5. Provision of other forensic services for children when requested by the council.

b. The Department of Forensic Sciences shall prepare an annual accounting of the distribution of monies received and the effectiveness of programs implemented pursuant to this act and shall file the accounting with the council before July 1. Sufficient safeguards shall be implemented to ensure that the new monies increase and not supplant or decrease existing state support

Section 5. (a) There is created the Permanent Joint Interim Legislative Oversight Committee of the Children First Trust Fund. The committee shall be composed of three members of each house, to be appointed by the presiding officer of each house. The chair and vice chair of the oversight committee shall be elected at the first meeting by the members of the oversight committee. The oversight committee shall meet as it deems necessary and shall study and oversee all facets of the Children First Trust Fund. The committee shall review each monthly report provided by the

Alabama Juvenile Justice Coordinating Council, and may make recommendations as it deems appropriate.

(b) The oversight committee shall consider recommending to the Coordinating Council a comprehensive plan to establish a grants program to assist parents in placing their children in accredited behavior modification programs.

(c) Upon the request of the chair, the Secretary of the Senate and the Clerk of the House shall provide the clerical assistance necessary for the work of the oversight committee.

(d) The oversight committee shall review each community service grant awarded pursuant to this act to determine compliance with this act and the guidelines established in Chapter 24 of Title 41, Code of Alabama 1975, the Community Service Grant Program Act of 1989.

(e) Each member of the oversight committee shall be entitled to his or her regular legislative compensation, his or her per diem, and travel expenses for each day he or she attends a meeting of the oversight committee which shall be paid out of any funds appropriated to the use of the Legislature, upon warrants drawn on the State Comptroller upon requisitions signed by the chair of the oversight committee. Notwithstanding the foregoing, no member shall receive additional legislative compensation or per diem when the Legislature is in session or if a member is being paid any other payments on the same dates for attendance of other state business.

Section 6. This act shall become effective immediately after its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 27, 1998

Time: 11:00 A.M.

Act No. 98-383

S. 14 – Senator Denton

AN ACT

To amend Section 9-2-14, Code of Alabama 1975, relating to the composition and appointment of the members of the Advisory Board of Conservation and Natural Resources; to provide further for appointments based on residency from congressional districts and to provide for transitional appointments.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 9-2-14, Code of Alabama 1975, is amended to read as follows:

“§9-2-14.

“(a) There shall be an advisory board of conservation and natural resources. The board shall consist of the governor, the commissioner of agriculture and industries, the director of the agricultural extension system ex officio, and 10 other members to be appointed by the governor, one of whom the Governor shall designate as chair of the advisory board of conservation and natural resources. The appointed members of the board shall be selected with special reference to training and experience along one or more of the principal lines of activity vested in the department of conservation and natural resources. The term of office of each appointed member of the board shall be six years. Of members first appointed, however, two members shall be appointed for two years, three members shall be appointed for four years, two members shall be appointed for five years and three members shall be appointed for six years. The members of the board shall receive no salary or compensation as members of the board, but shall be reimbursed for expenses of travel, meals, and lodging while in the performance of their duties as members of the board, pursuant to article 2 of chapter 7 of Title 36.

“(b) After the effective date of the act adding this language, the members of the advisory board appointed by the Governor shall be appointed so that one member of the board is a resident of each congressional district as the districts are constituted on January 1, 1998, and no more than two members are residents of the same congressional district. If a member appointed from a congressional district ceases to be a resident of the district from which appointed, the member shall vacate his or her office. This subsection shall not affect the term or reappointment of any current member of the board.

“(c) The board shall hold semiannual regular meetings at the time and place designated by the chair of the board or the commissioner of conservation and natural resources. The chair of the board or the commissioner of conservation and natural resources may call special meetings as may be necessary.

“(d) The commissioner of conservation and natural resources shall be ex officio secretary of the board and shall keep minutes of all meetings and a record of all proceedings of the board. The commission shall receive no additional compensation for the services.”

Section 2.

(a) On a transitional basis, one additional transitional member of the Advisory Board of Conservation and Natural Resources shall be appointed by the Governor from each congressional district as

constituted on January 1, 1998, which is not currently represented on the board. A transitional member shall serve a term of six years or until a permanent member of the advisory board is appointed to represent the congressional district where the transitional member resides. A transitional member may be appointed a permanent member to a full term of office. Transitional members of the board shall have the same power, rights, and duties, and shall be reimbursed for expenses as other members of the advisory board during their service on the board.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 27, 1998

Time: 11:02 A.M.

Act No. 98-384

S. 359 – Senator Bedford

AN ACT

Relating to the certificate of need process and the State Health Planning and Development Agency; to specify that the staff agency of the State Health Planning and Development Agency may not increase any fees related to the certificate of need process; to rescind any fee increases after January 1, 1998; and to specify that any fee increase of the State Health Planning and Development Agency related to the certificate of need process shall be adopted as a rule pursuant to the Alabama Administrative Procedure Act.

Be It Enacted by the Legislature of Alabama:

Section 1. (a) Any law to the contrary notwithstanding, the staff agency of the State Health Planning and Development Agency or its executive director may not increase or set any fees otherwise authorized relating to the certificate of need process pursuant to Article 9 of Chapter 21 of Title 22 of the Code of Alabama 1975.

(b) Any fee increase by the staff agency of the State Health Planning and Development Agency or its executive director adopted after January 1, 1998, is rescinded and shall not be operative unless readopted in accordance with this section.

(c) Any fee increase related to the certificate of need process of the State Health Planning and Development Agency shall be adopted as a rule pursuant to the Alabama Administrative Procedure Act, Chapter 22 of Title 41 of the Code of Alabama 1975.

(d) (1) For the purpose of this section, the term “State Health Planning and Development Agency” means the CON review board

which is defined as the State Health Planning and Development Agency (SHPDA) in subdivision (14) of Section 22-21-260 of the Code of Alabama 1975, and which consists of three consumers, three providers, and three representatives of the Governor.

(2) For the purpose of this section, the term "any fee related to the certificate of need process" means any fee authorized to be established by the State Health Planning and Development Agency, its staff agency, or the executive director of the staff agency. The term includes, but is not limited to, applications for a CON, opinions from the state agency as to whether a project is subject to review, or any other fee established pursuant to Article 9, of Chapter 21 of Title 22 of the Code of Alabama 1975.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 27, 1998

Time: 1:45 P.M.

Act No. 98-385

H. 234 – Rep. Fuller

AN ACT

To amend Sections 16-25-11.5, 16-25-11.6, 16-25-11.11, 16-25-14, 16-25-21, 16-25-22, 36-27-15.1, 36-27-15.2, 36-27-16, 36-27-24, 36-27-49.3, relating to the Teachers' Retirement System and the Employees' Retirement System, to provide for the continuation of bonus years for state policemen electing service retirement where benefits are calculated under the service formula; to provide criteria for the funding of the Teachers' and Employees' Retirement Systems of Alabama and the Judicial Retirement Fund; to specify the valuation of assets based on a market related value and to place limitations on the funding period for the amortization of the unfunded accrued liability; to clarify the treatment of system assets relating to real property, specifically the rental, sale, and taxability of the assets, to provide for the purchase of various categories of service with the systems to require the member to pay the full actuarial costs for the service; to provide for the payment of unused and accumulated sick leave to the designated beneficiary of an active and contributing member of the Teachers' Retirement System when the member dies in service; to require an appropriation from the Education Trust Fund to cover actual costs; and to establish effective dates.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 16-25-11.5, Code of Alabama 1975, is hereby amended to read as follows:

“§16-25-11.5.

“(a) Any active and contributing member of the Teachers’ Retirement System of Alabama shall be eligible to receive up to five years of creditable service for employment in a support personnel position in the State of Alabama, if the member claiming the credit has not less than 10 years of contributing membership service exclusive of military service credit under the Teachers’ Retirement System, and the member performs and complies with the conditions prescribed in subsection (b) of this section.

“(b) A member of the Teachers’ Retirement System of Alabama eligible under subsection (a) of this section may receive credit as provided in subsection (a) if as a condition precedent to the receipt of the credit: (i) the member contributes prior to his or her date of retirement, to the Teachers’ Retirement System for each year of claimed service credit the full actuarially determined cost for each year of service credit as determined by the system’s actuary; (ii) the member shall claim purchase and receive credit for support personnel service in increments of not less than one year unless the member’s total or balance of claimed service is less than one year in which event he or she shall claim and purchase credit for the entire period.

“(c) Anything in this section to the contrary notwithstanding, a member shall not be eligible to purchase credit under this section for service for which he or she already has credit under the Teachers’ Retirement System or any other retirement or pension plan which is wholly or partly funded from public funds or other moneys of public institutions of this or any other state, provided that nothing herein shall be construed to apply to participation in the federal Social Security Program. In the event of disqualification of service purchased under this section, contributions made on account of the disqualified service shall be refunded to the member.”

Section 2. Section 16-25-11.6, Code of Alabama 1975, is hereby amended to read as follows:

“§16-25-11.6.

“(a) Any active and contributing member of the Teachers’ Retirement System of Alabama who prior to April 25, 1990 was a regular employee of a school operated by the Department of Defense of the United States of America and is now covered by the Teachers’ Retirement System shall be eligible to receive credit for such service provided that the member of the Teachers’ Retirement System claiming such credit shall have attained not less than 10 years of contributing membership service credit exclusive of military service credit

under the Teachers' Retirement System, and provided further that such member performs and complies with the conditions prescribed in subsection (b) of this section.

"(b) A member of the Teachers' Retirement System of Alabama eligible under subsection (a) of this section may receive credit for employment rendered to a school operated by the Department of Defense of the United States of America as provided in subsection (a) of this section, provided that as a condition precedent to the receipt of such credit (i) such member shall contribute prior to the date of his retirement to the Teachers' Retirement System for each year of employment with a school operated by the Department of Defense of the United States of America the full actuarially determined cost for each year of service purchased as determined by the system's actuary; (ii) the employer for which such member was employed shall certify in writing to the Teachers' Retirement System the dates of the member's employment together with a statement certifying that such member was a regular employee of a school operated by the Department of Defense of the United States of America during such period of claimed service; (iii) the member shall claim, purchase and receive credit for eligible service in increments of not less than one year unless such member's total balance of such service is less than one year in which event he shall claim and purchase credit for the entire period.

"(c) Anything in this section to the contrary notwithstanding, a member of the Teachers' Retirement System shall not receive credit for such service where at the time of retirement he has credit or is entitled to any benefits whatsoever for the same service under any other retirement or pension plan which is wholly or partly funded from public funds, provided, however, that nothing contained herein shall be construed to apply to participation in the **federal Social Security Program**. In the event of disqualification of such service credit contributions made under this section by the member shall be refunded to him.

"(d) The Teachers' Retirement System may deduct in 12 equal installments from the retirement allowance payable to a retired member any additional contributions necessary to pay the administrative costs incurred in granting the credit hereunder in the event its Board of Control and consulting actuaries thereto determine that the amounts contributed by the member under the provisions hereof are insufficient to pay such administrative costs."

Section 3. Section 16-25-11.11, Code of Alabama 1975, is hereby amended to read as follows:

"§16-25-11.11.

“(a) Any active and contributing member of the Teachers’ Retirement System may purchase credit in the Teachers’ Retirement System for prior service with the Alabama State Council on the Arts if the member has not received credit in the system for the same prior service and has not vested or otherwise become eligible to receive a retirement benefit by using the same prior service credit in another pension plan offered by the council.

“(b) A member of the Teachers’ Retirement System who is eligible to purchase any prior service credit under subsection (a) shall receive the credit if he or she pays into the system on or before his or her date of retirement, an amount equal to the full actuarially determined cost for each year of prior service purchased as determined by the system’s actuary. Prior service may be purchased only in yearly increments of at least two years at a time.”

Section 4. Section 16-25-14, Code of Alabama 1975, is hereby amended to read as follows:

“§16-25-14.

“(a) (1) Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service.

“(2) Any member who has attained age 60 and has previously withdrawn from service may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that the said member shall have completed at the time for his withdrawal from service the requirements established by the Board of Control for eligibility for deferred benefits pursuant to Section 16-25-3.

“(3) Any person who is presently covered or is eligible to be covered under the Employees’ Retirement System of Alabama or the Teachers’ Retirement System of Alabama and who, prior to such coverage or eligibility for coverage, served as head of any Alabama county’s public library service department shall have credited to him or her one year of creditable service for each year served as such head, not to exceed 12 years; provided, that such person shall pay into the retirement system the employee’s part of the cost or contribution based on the salary paid to such person during the time of his or her service in the above capacity, with such cost or contribution to be calculated at the percent or rate in effect on October 1, 1973.

"(4) Any member of the Teachers' Retirement System of Alabama, who withdraws from service after the completion of at least 25 years of creditable service, may retire upon written application to the Board of Control of the Teachers' Retirement System setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963 shall have completed 10 or more years of creditable service.

"(b) Upon retirement from service, a member shall receive a service retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"(2) A pension which shall be equal to the annuity allowable at the age of retirement, but not to exceed an annuity allowable at age 65 computed on the basis of contributions made prior to the attainment of age 65; and

"(3) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to the annuity which would have been provided at age of retirement, but not to exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of the members that was received during such prior service, the Board of Control may use for the purposes of this chapter the compensation rates which, if they had progressed with the rates of salary increase shown in the tables as prescribed in subsection (o) of Section 16-25-19, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"(c) The annual service retirement pension payable to a member retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"(1) Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"(2) If he became a member before October 1, 1971, \$72 multiplied by the number of years of his creditable service not in excess of 25 years.

"Notwithstanding, a member who retired prior to October 1, 1971, under service retirement shall receive \$120 multiplied by the number of years of his creditable service not in excess of 25 years.

"(d) Upon the application of a member in service or of his employer, any member who has had 10 or more years of creditable service may be retired by the Board of Control on a disability retirement allowance not less than 30 nor more than 90 days next following the date of filing such an application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

"(e) Upon retirement for disability, a member shall receive a service retirement allowance if he has attained age 60 or if any law or part of any law pertaining to retirement under the Teachers' Retirement System of Alabama provides for service retirement after the completion of 25 years of creditable service and the member has completed 25 years of creditable service; otherwise, he shall receive a disability retirement allowance which shall consist of:

"(1) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and

"(2) A pension which shall be equal to the pension that would have been payable under subdivisions (2) and (3) of subsection (b) of this section upon service retirement at age 60 had the member continued in service to said age without change in compensation.

"The annual disability retirement pension shall not be less than an amount which when added to his annuity is equal to the greater of the following amounts:

"a. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service.

"b. If he became a member before October 1, 1971, \$54 multiplied by the number of years of his creditable service not in excess of 25 years.

"Notwithstanding, a member who retired prior to October 1, 1971, for disability shall receive \$90 multiplied by the number of years of his creditable service not in excess of 25 years.

"(f) (1) Once each year during the first five years following the retirement of a member on a disability retirement allowance and

once in every three-year period thereafter, the Board of Control may and upon his application shall require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his pension may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Control.

“(2) Should the medical board report and certify to the Board of Control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the Board of Control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation.

“(g) (1) Should a member cease to be a teacher, except by death or by retirement under the provisions of this chapter, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand, and in addition to such payment there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if **he shall have not less than 16 but less than 21 years of membership service**, seven tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service, and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

“(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have designated, in an amount that would have been payable if the member had retired immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus

an amount equal to the accumulated contributions of the member not to exceed \$5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section.

“(3) In case of the death of a member not eligible for service retirement after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have designated, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected option 3, as set forth in subsection (h) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section.

“(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivision (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed \$5,000 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the Board of Control.

“(h) With the provision the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent at that time of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

“(1) OPTION 1. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control;

“(2) OPTION 2. – Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement;

“(3) OPTION 3. – Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation

duly acknowledged and filed with the Board of Control at the time of his retirement; or

“(4) **OPTION 4.** – Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Control.

“(i) Should any beneficiary be restored to active service, his retirement allowance shall be suspended until he again withdraws from service and, he shall not again become a member, nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may request the Board of Control to allow him to again become a member of the retirement system. The Board of Control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any period subsequent to the date of his reentry into active service; provided further, that he shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended allowance basis, together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

“(j)(1) All retirement allowance payments due on or after October 1, 1975 to members who retired prior to October 1, 1975 shall be redetermined as if the provisions of subsections (b) and (e) of this section which became effective on said date were in effect at the time the member retired; provided, that the annual retirement allowance of any member who retired on or before January 1, 1956 shall be not less than \$132 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement or \$99 multiplied by the number of years of creditable service not in excess of 30 years in the case of disability retirements. Any increase provided in the retirement allowance payment under this subsection for a member who retired under the provisions of any optional benefit elected pursuant to subsection (h) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subsection.

“(2) Any person who served at least 30 years as a teacher in the public schools of Alabama and was never a member of the system

and who, prior to October 1, 1963, was in receipt of a benefit for old age assistance pursuant to subsections (1) and (2) of Section 1 of Act 116, approved August 24, 1959, shall be entitled to receive an annual retirement allowance of \$3,960 from the system, effective as of October 1, 1973.

“(3) Prior to October 31, 1975 any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivision (1) or (2) of this subsection. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest thereon, to the individual account of such beneficiary. Upon the death of such beneficiary, the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representative or to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Control.”

Section 5. Section 16-25-21, Code of Alabama 1975, is amended to read as follows:

“§16-25-21.

“Effective October 1, 1997, all the assets of the retirement system shall be credited according to the purpose for which they are held among three funds, namely: The Annuity Savings Fund, the Pension Accumulation Fund, and the Expense Fund. The operation of the former pension reserve fund and the annuity reserve fund shall be discontinued as of such date, the balance of the former pension reserve fund shall be transferred to the Pension Accumulation Fund, and the balance of the former annuity reserve fund shall be transferred to the Pension Accumulation Fund.

“(1) The Annuity Savings Fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to and payments from the Annuity Savings Fund shall be made as follows:

“a. Each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period five percent of his earnable compensation. In determining the amount earnable by a member in a payroll period, the Board of Control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if a teacher was not a member on the first day of the payroll period, and to facilitate the making of deductions it may

modify the deduction required of any member by such an amount as shall not exceed one tenth of one percent of the annual compensation upon the basis of which such deduction is to be made.

"b. The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deduction made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the service rendered by such person during the period covered by such payment, except as to the benefits provided under this chapter. The employer shall certify to the Board of Control on each and every payroll or in such other manner as the board may prescribe the amount to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into the Annuity Savings Fund and shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation said deduction was made.

"c. In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the Board of Control, any member may deposit in the Annuity Savings Fund by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity which, together with his prospective retirement allowance, will provide for him a total retirement allowance not to exceed one half of his average final compensation at age 60. Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The contributions and interest credits of a member withdrawn by him, or paid to his estate or to his designated beneficiary in event of his death, shall be paid from the Annuity Savings Fund. Should a member cease to be a member other than by retirement under the provisions of this title, an amount equivalent to the difference, if any, between his accumulated contributions and the amount then paid shall be transferred to the Expense Fund. Upon the retirement of a member or the death of an eligible member where an allowance to the surviving spouse is payable, his accumulated contributions shall be transferred from the Annuity Savings Fund to the Pension Accumulation Fund.

"d. Notwithstanding the preceding provisions, no deductions shall be made from any member's salary on account of which the employer's contribution is in default.

“(2) The Pension Accumulation Fund shall be the fund in which shall be accumulated all reserves, other than amounts held in the annuity savings fund for the payment of all pensions and other benefits. Contributions to and payments from the pension accumulation fund shall be made as follows:

“a. On account of each member there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member to be known as the “normal contribution” and an additional amount equal to a percentage of his earnable compensation to be known as the “accrued liability contribution,” and these two amounts shall be paid monthly into the Pension Accumulation Fund. The Teachers’ Retirement System shall recommend to the Legislature on or before the first legislative day of each regular session of the Legislature the rate for the following fiscal year. The Legislature shall set the rate in the annual appropriation bill.

“b. On the basis of regular interest and of such mortality and other tables as shall be adopted by the Board of Control, the actuary engaged by the board to make such valuation required by this title shall, immediately after making such valuation, determine the uniform and constant percentage of the earnable compensation of the average new entrant which, if contributed on the basis of his compensation throughout his entire period of active service, would be sufficient to provide for the payment of any pension payable on his account. The rate per centum so determined shall be known as the “normal contribution” rate. The normal contribution rate shall be determined by the actuary after each valuation.

“c. (1) The accrued liability contribution rate shall be computed by the actuary on the basis of each valuation as the per centum rate of the total annual compensation of all members which is sufficient to liquidate the unfunded accrued liability over a period to be determined by the Board of Control which shall be not less than ten (10) nor more than twenty (20) years.

“(2) The unfunded accrued liability shall be computed by the actuary as the total liabilities of the system which are not dischargeable by the assets of the Annuity Savings Fund and the Pension Accumulation Fund and the present value of the aforesaid normal contributions. For purposes of computing the unfunded accrued liability the assets shall be determined as follows:

“On June 30, 1997, the assets shall be determined by using the market value of such assets. For subsequent years the value of the assets shall be determined by the system’s actuary using a five year smoothed market value.

"d. The total amount payable in each year to the pension accumulation fund shall be not less than the sum of the per centum rates known as the normal contribution rate and the accrued liability contribution rate of the total compensation earnable by all members during the year.

"e. All interest and dividends earned on the funds of the retirement system shall be credited to the Pension Accumulation Fund. The amounts needed to allow regular interest on the reserves in the Annuity Savings Fund, shall be transferred in accordance with the provisions of this chapter from the Pension Accumulation Fund. The Board of Control, in its discretion, may transfer to and from the Pension Accumulation Fund the amount of any surplus or deficit which may develop in the Annuity Savings Fund, or the Expense Fund.

"f. Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) and (3) of subsection (g) of Section 16-25-14, the death benefit as provided in subdivision (3) of subsection (g) of such section equal to the accumulated contributions not to exceed \$5,000.00 shall be payable from the Pension Accumulation Fund.

"(3) The Expense Fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided herein. Any amounts credited to the accounts of members withdrawing before retirement and not returnable under the provisions of subsection (g) of Section 16-25-14 shall be credited to the Expense Fund. Any additional contributions required to meet the expenses of the retirement system shall be made as provided in paragraphs c, d and e of subdivision (4) of this section.

"(4) a. On or before October 1 of each year, each local board of education, the State Board of Education, the governing boards of the University of Alabama, Auburn University and the University of Montevallo and the Executive Committee of the Alabama Education Association shall file with the Board of Control of the retirement system a certified statement containing the following information concerning the members of the retirement system employed by such boards for the scholastic year beginning on July first preceding said date: name, address, monthly salary, annual salary and such other information as the Board of Control may require. On or before July 31 of each year, each local board of education; the State Board of Education; the governing boards of the University of Alabama, Auburn University, and the University of Montevallo and the Executive Committee of the Alabama Education Association shall file

with the Board of Control of the retirement system a certified statement containing the following information concerning members of the retirement system employed by such boards during the scholastic year ending on June 30 preceding said date: name, address, monthly salary actually paid, total annual salary actually paid and such other information as the Board of Control may require.

“b. The collection of members’ contributions shall be as follows: Each local board of education, the State Board of Education, the governing boards of the University of Alabama, Auburn University and the University of Montevallo and the Executive Committee of the Alabama Education Association shall cause to be deducted on each and every payroll period subsequent to the date of the establishment of the retirement system the contributions payable by each member as provided in this chapter. Each employer shall transmit monthly, or at such time as the Board of Control shall designate, the total amount so deducted to the Secretary-Treasurer of the Board of Control accompanied by an itemized statement of the contributions of each individual member of the retirement system. The Secretary-Treasurer of the Board of Control after making a record of all such receipts shall transmit the same to the State Treasurer to be held for use according to the provisions of this chapter. Notwithstanding anything in this section, the Board of Control may modify the form of reports required of employers and may modify the method of collecting the contributions of members so that employers may retain the amounts so deducted and have a corresponding amount deducted from funds otherwise payable to them.

“c. The employer’s contributions shall be made from the same funds used to pay salaries based on the employer cost rate determined under paragraph a. of subdivision (2).

“d. Where member contributions are made from salaries paid from federal funds, the employer shall pay from federal funds to the Teachers’ Retirement System the amount calculated as a percentage of the salaries of those teachers to be contributed by the employer in accordance with subdivisions (3) and (5) of this section. Such amounts shall be paid at the same time as the member contributions are made to the retirement system. The provisions of this paragraph shall not apply to funds received under the provisions of the Hatch Act of 1887, as amended in 1955, and the McIntyre-Stennis Act (Cooperative Forestry Research Act of 1962) of the Congress of the United States, for the support of agriculturally related research.

“e. Where member contributions are made from salaries paid by the Alabama Education Association, the Alabama Education

Association shall pay the employer costs calculated as a percentage of the salaries of those employees to be contributed as employer in accordance with subdivisions (2) and (3) of this section. Such amounts shall be paid monthly and at the same time as the member contributions are made to the Teachers' Retirement System.

"f. To the extent that employer cost is collected for any increase in benefits payable to retired employees of local boards of education and state institutions of higher education who are retired under the Employees' Retirement System, there shall be a transfer of funds from these funds to the Employees' Retirement System for each year such benefits are payable.

"g. Employer cost provided for in this article together with member contributions required under this article shall be paid to the Teachers' Retirement System on the first day of the month following the month in which the related member salary is earned. Delinquent accounts shall accrue interest at the actuarial assumed investment rate beginning thirty days after the original due date. The member contributions for each member shall be reported to the Teachers' Retirement System in a format prescribed by the Teachers' Retirement System."

Section 6. Section 16-25-22, Code of Alabama 1975, is hereby amended to read as follows:

"§16-25-22.

"(a) The Retirement Systems of Alabama, which consist of the Employees' Retirement System of Alabama, the Teachers' Retirement System of Alabama, and the Judicial Retirement Fund of Alabama shall have within their corporate powers the right to purchase, sell and hold title, in their own name, to any interest or estate in real property. Such property shall be exempt from all state and local ad valorem taxes and shall not be subject to regulations or laws regarding the sale or lease of state property.

"(b) The Retirement Systems of Alabama shall have within their corporate powers the right to establish, as is consistent with the intent and purpose of the competitive bid laws of the State of Alabama, such facilities and procedures for the making of purchases and for the payment of all equipment and expenses reasonably necessary to the operation of the Retirement System of Alabama."

Section 7. Section 36-27-15.1, Code of Alabama 1975, is hereby amended to read as follows:

"§36-27-15.1.

"(a) Any person who served two or more years with the National Youth Administration, hereinafter referred to as N.Y.A., during the

time period from December 7, 1941 to December 31, 1946, and who is otherwise eligible for participation within the state retirement system, shall be entitled to have the time actually served with the N.Y.A. credited as state service for retirement purposes, upon the contribution of certain amounts, as provided in subsection (b) of this section, into the state retirement system fund.

“(b) Any person described in subsection (a) of this section entitled to have said N.Y.A. service credited as state service within the state retirement system shall contribute an amount equal to the full actuarially determined cost for each year of service credit, as determined by the system’s actuary.”

Section 8. Section 36-27-15.2, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27-15.2.

“(a)(1) Any member of the Teachers’ Retirement System of Alabama or any member of the Employees’ Retirement System of Alabama shall be eligible to receive up to 10 years of creditable service for employment in public education in states other than Alabama, for prior service in public education in Alabama as a support employee or a teacher’s aide, for regular full-time service with the teachers’ corps in the State of Alabama, for regular full-time service with the Job Corps, or for up to 10 years of creditable service for public employment rendered in states other than Alabama, provided that the member of the retirement system claiming the credit shall have attained not less than 10 years of contributing membership service credit, exclusive of military service credit, under the retirement system of which he or she is a member; and, provided further, that the member performs and complies with the conditions prescribed in subdivision (2) of this subsection.

“(2) A member of the Teachers’ or Employees’ Retirement System of Alabama, eligible under paragraph a. of this subdivision, may receive credit for public service rendered in states other than Alabama and for prior service in public education in Alabama as a support employee or a teacher’s aide or for regular full-time service with the teachers’ corps in the State of Alabama or the Job Corps as provided in subdivision (1) of this subsection, provided that as conditions precedent to the receipt of the credit:

“a. The member shall contribute, prior to the date of his or her retirement, to his or her respective retirement system, for each year of service credit, the full actuarially determined cost for each year of claimed service as determined by the system’s actuary.

“b. The public retirement system of the other state, county, city or other political subdivision thereof shall certify in writing to

the applicable retirement system that the member had credit under the retirement system for the service claimed.

"c. The member shall claim, purchase, and receive credit for out-of-state service in increments of not less than one year, unless the member's total or balance of out-of-state service is less than one year, in which event, he or she shall claim and purchase credit for the entire period.

"(b) Any person who is retired under the Teachers' or Employees' Retirement System of Alabama may receive credit for out-of-state service and prior service in public education in Alabama as a support employee or a teacher's aide or regular full-time service with the teachers' corps in the State of Alabama under the same conditions as are provided herein for active members, except that, in lieu of current compensation, the contribution shall be based on his or her average final salary at the time of retirement; and, provided, the person was retired on or before July 30, 1979; and, provided further, that the retired person makes his or her contribution in a lump sum prior to the expiration of a period being one year next following July 30, 1979. Any retirant so claiming and contributing the amount herein required shall have his or her retirement allowance redetermined on the basis of the additional creditable service, provided, that any increase in the retirant's retirement allowance shall be payable to him or her only throughout his or her life and shall not affect, alter, increase, decrease, or in any other way change the amount payable to the retirant's estate or designated beneficiary or surviving spouse, except under the provisions of Option 1, whereunder the contributions made pursuant to this section shall be treated as part of the retirant's accumulated contributions.

"(c) Anything in this section to the contrary notwithstanding, **a member shall not receive credit for the out-of-state service, teachers' aide service, Job Corps service, or support employee service, teachers' corps service** where at the time of retirement he or she has credit or is entitled to any benefits whatsoever for the same service under any retirement or pension plan, including but not limited to TIAA-CREF, and which is wholly or partly funded from public funds, or other moneys of public institutions of this or any other state or political subdivision thereof; provided, that nothing herein shall be construed to apply to participation in the federal social security program. In the event of disqualification of out-of-state service credit, contributions made under this section by the member shall be refunded to him or her.

"(d) The retirement system may deduct in 12 equal installments, from the retirement allowance payable to a retired member,

any additional contribution necessary to pay the administrative cost incurred in granting the credit hereunder in the event its Board of Control and consulting actuary thereto determine that the amounts contributed by the member under the provisions hereof are insufficient to pay the administrative cost."

Section 9. Section 36-27-16, Code of Alabama 1975, is amended to read as follows:

"§36-27-16.

"(a)(1) RETIREMENT, ETC., OF EMPLOYEES GENERALLY; ELIGIBILITY FOR SERVICE RETIREMENT BENEFITS. -

"a. Any member who withdraws from service upon or after attainment of age 60 may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, that any such member who became a member on or after October 1, 1963, shall have completed 10 or more years of creditable service; provided further, that a member employed as a state policeman shall be eligible to file application of service retirement upon attaining age 52.

"b. Any member who has attained age 60, or age 52 in the case of a state policeman, and has previously withdrawn from service may retire upon written application to the Board of Control setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; provided, said member shall have at the time of his withdrawal from service completed the age and service requirements established by the Board of Control for eligibility for deferred benefits; provided, that such minimum number of years of creditable service shall not be less than 10 years nor more than 25 years.

"c. In addition to any law or part of law relating to service retirement under the Employees' Retirement System of Alabama, any member of the Employees' Retirement System who withdraws from service after completion of not less than 25 years of creditable service may retire without a reduction in retirement allowance upon written application to the Board of Control of the Employees' Retirement System setting forth the first day of which month, not less than 30 days or more than 90 days subsequent to the execution and filing thereof, he desires to be retired, provided that no person whose employer participates in the Employees' Retirement System under Section 36-27-6 shall be entitled to the benefits provided in this paragraph unless such employer elects to come under the provisions of said paragraph. Any employer making such election must bear the cost of such benefit.

“(2) AMOUNT OF SERVICE RETIREMENT ALLOWANCE. –

“a. Upon retirement from service a member shall receive a service retirement allowance which shall consist of:

“1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the annuity shall be equal to the annuity that would have been payable upon service retirement at age 60 had the member continued in service to said age 60 without change in compensation;

“2. A pension which shall be equal to the annuity allowance at age of retirement, but not to exceed an annuity allowable at age 65, computed on the basis of contributions made prior to attainment of age 65; except, that in the case of a state policeman who has completed 20 years of creditable service as a state policeman who retires after age 56 but prior to age 60, the pension shall be equal to the annuity that he would have received had he contributed to age 60 without change in compensation; and

“3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at age 65 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder; except, that in case of a state policeman who has completed 20 years of creditable service as a state policeman who retired after age 56 but prior to age 60, an additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at age 60, but which shall not exceed an annuity allowable at age 60 by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder.

“b. Notwithstanding the provisions of subparagraphs 1, 2, and 3 of paragraph a of this subdivision, a state policeman who has completed 20 years of service as a state policeman who retires after age 52 but prior to age 56 shall receive:

“1. An annuity which shall be equal to the annuity that would have been payable had the member continued in service for four years without change in compensation;

“2. A pension which shall be equal to the annuity that he would have received had he contributed for four years without change in compensation; and

"3. An additional pension, if he has a prior service certificate in full force and effect, which shall be equal to the annuity which would have been provided at the age of retirement, but which shall not exceed an annuity allowable at the age of retirement plus four years by twice the contributions which he would have made during the period of prior service with which he is credited had the system been in operation and had he contributed thereunder. In lieu of a determination of the actual compensation of a member that was received during such prior service, the Board of Control may use for the purpose of this article the compensation rate which, if it had progressed with the rates of salary increase shown in the tables as prescribed in subsection (n) of Section 36-27-23, would have resulted in the same average salary of the member for the five years immediately preceding the date of establishment as the records show the member actually received.

"c. The annual service retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity, is equal to the greater of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of his creditable service; or

"2. If he became a member before October 1, 1965, \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. The annual service retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which, when added to his annuity is equal to the greater of the following two amounts:

"1. Two and seven-eighths percent of the member's average final compensation multiplied by the number of years of his creditable service. Creditable service for any state policeman under the age of 56 years who has completed 20 years of creditable service as a state policeman shall include a bonus equal to four addition years. Creditable service for a state policeman 56 years or older shall include a bonus equal to the years or portion thereof remaining until the member reaches age 60; or

"2. If he became a member before October 1, 1965, \$86.40 multiplied by the number of years of his creditable service not in excess of 25 years; provided, however, that if such member has completed 20 years of creditable service as a state policeman and has not attained age 60 at the time of retirement, said pension shall be determined as provided in this subparagraph on the basis

of the number of years of creditable service which he would have had if he had remained in service for four years, except that, in the case of those state policemen retiring at age 56 or after, the number of years in determining said pension shall not exceed the number of years of creditable service which he would have had if he had remained in service to age 60.

"e. Anything in this article to the contrary notwithstanding, in the application of the foregoing provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification, the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

"f. The annual service retirement pension payable to any state employee who had attained age 60 on or before October 1, 1945, who declined membership in the Employees' Retirement System of Alabama in the manner prescribed in Section 36-27-4 and who retires as a state employee after completing a minimum of 15 years' service shall be \$72.00 multiplied by the number of years of his service not in excess of 25 years.

"(b)(1) RETIREMENT OF DISABLED EMPLOYEES; ELIGIBILITY FOR DISABILITY RETIREMENT BENEFITS. -

"a. Upon application of a member in service or of his employer, any member who has had 10 or more years of creditable service who becomes disabled may be retired on a disability retirement allowance by the Board of Control not less than 30 nor more than 90 days next following the date of filing of such application; provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent and that such member should be retired.

"b. Without regard to the number of years of creditable service, a member employed as a state policeman, a municipal police officer or a deputy sheriff, or a member employed as a state, municipal or county firefighter who is not covered through his current employer under the United States Social Security Act, who as a result of his employment, in the line of duty and not as a result of his own misconduct, shall become permanently and totally disabled to the extent that he cannot perform his duties or duties of a

less strenuous nature, as an employee of the State of Alabama or as an employee of an employer participating under the provisions of Section 36-27-6, shall be retired on a disability retirement allowance, not less than 30 nor more than 90 days next following the date of filing of such application, provided that the medical board, after a medical examination of such member shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

"(2) AMOUNT OF DISABILITY RETIREMENT ALLOWANCE. –

"a. Upon retirement for disability a member shall receive a service retirement allowance if he has attained age 60, or if any law or part of any law pertaining to retirement under the Employees' Retirement System of Alabama provides for service retirement after the completion of 25 years of creditable service without a reduction in the retirement allowance and the member has completed 25 years of creditable service, or, in the case of a state policeman, if he has attained age 52; otherwise, he shall receive a disability retirement allowance which shall consist of:

"1. An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement;

"2. A pension which shall be equal to the pension that would have been payable under subparagraphs 2 and 3 of paragraph a of subdivision (2) of subsection (a) of this section upon service retirement at age 65 had the member continued in service to said age without change in compensation.

"b. The annual disability retirement pension payable to a member not employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greatest of the following two amounts:

"1. Two and one-eightieth percent of the member's average final compensation multiplied by the number of years of creditable service.

"2. If he became a member before October 1, 1965, \$54.00 multiplied by the number of years of his creditable service not in excess of 25 years.

"c. The annual disability retirement pension payable to a member employed as a state policeman retiring on or after October 1, 1975, shall not be less than an amount which when added to his annuity is equal to the greater of the following two amounts:

"1. Two and seven-eighths percent of the member's average final compensation multiplied by the number of years of his creditable service. Creditable service for any state policeman under the age of 56 years who has completed 20 years of creditable service as a state policeman shall include a bonus equal to four additional years. Creditable service for a state policeman 56 years or older shall include a bonus equal to the years or portion thereof remaining until the member reaches age 60; or

"2. If he became a member before October 1, 1965, \$64.80 multiplied by the number of years of his creditable service not in excess of 25 years.

"d. Anything in this chapter to the contrary notwithstanding in the application of the provisions of this subdivision to a member whose creditable service includes a period of service as a state policeman and a period of service in another employment classification the benefit rates applicable to a member employed as a state policeman shall apply to all creditable service as a state policeman, and the benefit rates applicable to a member not employed as a state policeman shall apply to all other creditable service, but in all other respects the pension under this subdivision shall be determined on the basis of the member's employment classification at the time of his withdrawal from service.

"(3) REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY. – Once each year during the first five years following the retirement of a member on a disability retirement allowance and once every three-year period thereafter, the Board of Control may, and upon his application shall, require any disability beneficiary who has not yet attained age 60 to undergo a medical examination, such examination to be made at the place of residence of such beneficiary or other place mutually agreed upon by a physician or physicians of or designated by the medical board. Should any disability beneficiary who has not yet attained age 60 refuse to submit to such medical examination, his allowance may be discontinued until his withdrawal of such refusal, and, should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Control; provided, that these requirements relative to the medical examination shall not apply in the case of a state policeman retired for disability and who has attained age 52. Should the medical board report and certify to the Board of Control that a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and his average final compensation and should the Board of Control concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount

earnable by him shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified; provided, that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary, together with this annuity exceeds the amount of his average final compensation.

“(c) Disposition of contributions and allowances upon death, etc., of member.

“(1) Should a member cease to be an employee except by death or by retirement under the provisions of this article, the contributions standing to the credit of his individual account in the annuity savings fund shall be paid to him upon demand and, in addition to such payment, there shall be paid five tenths of the interest accumulations standing to the credit of his individual account if he shall have not less than three but less than 16 years of membership service, six tenths of such interest accumulations if he shall have not less than 16 but less than 21 years of membership service, seven tenths of such interest accumulations if he shall have not less than 21 but less than 26 years of membership service and eight tenths of such interest accumulations if he shall have not less than 26 years of membership service.

“(2) In case of the death of a member eligible for service retirement pursuant to subsection (a) of this section, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have designated, in an amount that would have been payable if the member had retired immediately prior to his death and had elected Option 3, as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under Option 3, the accumulated contributions of the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section;

“(3) In case of the death of a member not eligible for service retirement, after completion of 25 years of creditable service, an allowance shall be paid to the surviving spouse, or to such other person who the member shall have designated, in an amount that would have been payable if the member had retired for disability immediately prior to his death and had elected Option 3 as set forth in subsection (d) of this section or, alternatively, if the surviving spouse or other designee desires, he may choose to receive, in lieu of the allowance provided under Option 3, the accumulated contributions of

the member plus an amount equal to the accumulated contributions of the member not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section;

“(4) Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) or (3) of this subsection, the accumulated contributions of the member plus an amount equal to the accumulated contributions not to exceed \$5,000.00 or the accumulated contributions of the member plus the benefit provided by Section 36-27B-3 if a benefit is payable under such section shall be paid to his estate or to such person as he shall have nominated by written designation duly executed and filed with the Board of Control.

“(d) Optional allowances. – With the provision that the election of an option shall be effective on the effective date of retirement, any member may elect prior to retirement to receive, in lieu of his retirement allowance payable throughout life, the actuarial equivalent, at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provisions that:

“(1) OPTION 1. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control;

“(2) OPTION 2. – Upon his death, his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement;

“(3) OPTION 3. – Upon his death, one half of his reduced allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Control at the time of his retirement; or

“(4) OPTION 4. – Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate; provided, that such other benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance and shall be approved by the Board of Control.

“(e) EFFECT OF RETURN TO ACTIVE SERVICE. – Should any beneficiary be restored to active service, his retirement

allowance shall be suspended until he again withdraws from service and he shall not again become a member of the retirement system nor shall he make contributions; except, that should such beneficiary who has been restored to active service continue in service for a period of two or more years from the date of his reentry into active service, he may the Board of Control to allow him to again become a member of the retirement system. The Board of Control may grant the request for restoration to membership; provided, that such beneficiary whose retirement allowance has been suspended shall repay to the system all moneys received by him as benefits during any periods subsequent to the date of his reentry into active service and shall make a contribution equal to the amount he would have contributed had he been a member during the period of his restoration to active service on a suspended on allowance basis together with the interest which would have been credited to the contributions on account of such period of restoration up to the date such contribution is made.

“(f)(1) **REDETERMINATION, ETC. OF CERTAIN ALLOWANCES.** – All retirement allowance payments due on or after October 1, 1975, to members who retired prior to said date shall be redetermined as if the provisions of this section in effect on October 1, 1975, were in effect at the time the member retired. Anything in this article to the contrary notwithstanding, the annual retirement allowance of any member not employed as a state policeman who retired on or before January 1, 1956, shall not be less than \$79.20 multiplied by the number of years of his creditable service not in excess of 30 years in the case of service retirement of \$59.40 multiplied by the number of years of his creditable service not in excess of 30 years in the case of disability retirement. Any increase provided in the retirement allowance payment under this subdivision for a member who retired under the provisions of any optional benefit elected pursuant to subsection (d) of this section shall accrue only to the retired member, and no person designated to receive any payments after the death of a retired member under the provisions of any such optional benefit shall receive any increase in such payments under this subdivision. Notwithstanding, any member who retired prior to October 1, 1975, and who chose either option 2 or option 3 may elect to receive a reduced allowance and to stipulate that the actuarial equivalent of the increase in his retirement allowance, which became effective on said date, be ascribed to his designated beneficiary; provided, that such member shall clearly express this intention by filing a written application to said effect with the Secretary-Treasurer of the Employees’ Retirement System of Alabama prior to October 1, 1976.

“(2) Any person who, prior to October 1, 1963, was in receipt of a benefit pursuant to Act No. 376, approved November 6, 1959, but was not a member of the system at the time of retirement shall not

be entitled to receive an annual retirement allowance from the system, effective October 1, 1971, as follows:

“a. If such person was retired on or before January 1, 1956, an amount equal to \$79.20 multiplied by the number of years of his creditable service not in excess of 30 years.

“b. If such person was retired after January 1, 1956, an amount equal to \$72.00 multiplied by the number of years of his creditable service not in excess of 25 years.

“(3) Prior to October 31, 1975, any beneficiary may elect to leave on deposit with the system all or a specified part of any increase in his monthly retirement allowance payments arising in accordance with subdivisions (1) or (2) of this subsection over the monthly allowance which he was receiving prior to October 1, 1975. The portion of each monthly payment left in the system in accordance with such election shall be credited, together with regular interest thereon, to the individual account of such beneficiary. Upon the death of such beneficiary the total amount standing to his credit, including regular interest to the date of death, shall be paid in a lump sum to his legal representatives or to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Control.”

Section 10. (a) The Board of Control of the Teachers' Retirement System of Alabama is authorized to implement any new accounting procedures, funds or administrative changes and to provide for the payment of benefits to members or beneficiaries of the retirement system as may be necessary to ensure the Teachers' Retirement System of Alabama's compliance with the qualification standards required of public pension plans by the Internal Revenue Code of the United States.

(b) The Board of Control of the Employees' Retirement System of Alabama is authorized to implement any new accounting procedures, funds or administrative changes and to provide for the payment of benefits to members or beneficiaries of the retirement system as may be necessary to ensure the Employees' Retirement System of Alabama's compliance with the qualification standards required of public pension plans by the Internal Revenue Code of the United States.

(c) The Board of Control of the Employees' Retirement System of Alabama is authorized to implement any new accounting procedures, funds or administrative changes and to provide for the payment of benefits to members or beneficiaries of the retirement fund as may be necessary to ensure the Judicial Retirement Fund's compliance with the qualification standards required of public pension plans by the Internal Revenue Code of the United States.

Section 11. Section 36-27-24, Code of Alabama 1975, is hereby amended to read as follows:

“§36-27-24.

“(a) Effective October 1, 1997, all the assets of the retirement system shall be credited according to the purpose for which they are held among three funds, namely, the annuity savings fund, the pension accumulation fund, and the expense fund. The operation of the former Pension Reserve Fund and the Annuity Reserve Fund shall be discontinued as of such date and the balance of the former Pension Reserve Fund shall be transferred to the Pension Accumulation Fund, and the balance of the former Annuity Reserve Fund shall be transferred to the Pension Accumulation Fund.

“(b) Annuity savings fund. – The annuity savings fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities.

“Contributions to and payments from the annuity savings fund shall be made as follows: Effective October 1, 1971, each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period five percent of his earnable compensation; except, that in the case of a state policeman, the rate of 10 percent of earnable compensation shall apply, and in computing all retirement benefits it shall be assumed that a seven percent rate of contribution had applied with respect to service as a state policeman prior to July 1, 1957. In determining the amount earnable by a member in a payroll period, the board of control may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing through such payroll period, and it may omit deductions from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and, to facilitate the making of deductions, it may modify the deductions required of any member by such an amount as shall not exceed one tenth of one percent of the annual compensation upon the basis of which such deductions are made.

“The deductions provided for in this subsection shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deduction made and provided for in this subsection and shall receipt for his full salary or compensation and payment of salary or compensation less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person

during the period covered by such payment, except as to the benefits provided under this article. The employer shall certify to the board of control in each and every payroll or in such other manner as the board may prescribe the amounts to be deducted, and each of said amounts shall be deducted and, when deducted, shall be paid into the annuity savings fund and shall be credited, together with regular interest thereon, to the individual account of the member from whose compensation said deduction was made.

"In addition to the contributions deducted from compensation as provided in this subsection, subject to the approval of the board of control, any member may deposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity which, together with his prospective retirement allowance, will provide for him a total retirement allowance not to exceed one half of his average final compensation at age 60. Such additional amounts so deposited shall become a part of his accumulated contributions, except in the case of retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension.

"The contributions and interest credits of a member withdrawn by him or paid to his estate or to his designated beneficiary in event of his death shall be paid from the annuity savings fund. Should a member cease to be a member other than by retirement under the provisions of this article, an amount equivalent to the difference, if any, between his accumulated contributions and the amount then paid shall be transferred to the expense fund. Upon the retirement of a member or the death of an eligible member where an allowance to a surviving spouse or other designated beneficiary is payable, his accumulated contributions shall be transferred from the annuity savings fund to the pension accumulation fund.

"Notwithstanding the preceding provisions, no deductions shall be made from any member's salary on account of which the employer's contributions are in default.

"The state personnel board, with the approval of the governor, may provide that the state shall pick up member contributions to the employees' retirement system of Alabama as required by this subsection on behalf of all state employees who participate in the employees' retirement system by a corresponding reduction in the salary of the member, such pick-up to be mandatory for all such employees, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code. These contributions shall be paid from the same source of funds which is used in paying earnings to the

employee. If employee contributions are so picked up they shall be treated for all other purposes of state law in the same manner and to the same extent as employee contributions made prior to the date picked up.

“(c) Pension accumulation fund. – The pension accumulation fund shall be the fund in which shall be accumulated all reserves other than the amounts held in the Annuity Savings Fund for the payment of all pensions, all allowances granted to surviving spouses or other designated beneficiaries and other benefits payable from contributions made by the employer and from which shall be paid all pensions, all allowances granted to surviving spouses or other designated beneficiaries and other benefits on account of members with prior service credit.

“Contributions to and payments from the pension accumulation fund shall be made as follows: On account of each member there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member to be known as the “normal contribution” and an additional amount equal to a percentage of his earnable compensation to be known as the “accrued liability contribution,” and these two amounts shall be paid monthly into the pension accumulation fund; provided, that in the case of a state policeman, such percentage rates of contributions shall be calculated separately. The percentage rate of such contributions shall be fixed for each fiscal year on the basis of the liabilities of the retirement system as shown by the last annual actuarial valuation, and such percentage rate as established by such valuation shall take effect the following October 1 and continue in effect for the fiscal year.

“On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of control, the actuary engaged by the board to make such valuation required by this article during the period over which the accrued liability contribution is payable shall, immediately after making such valuation, determine the uniform and constant percentage of the earnable compensation of the average new entrant which, if contributed on the basis of his compensation throughout his entire period of active service, would be sufficient to provide for the payment of any pension payable on his account. The percentage rate so determined shall be known as the “normal contribution” rate. The normal rate of contributions shall be determined by the actuary after each valuation.

“The accrued liability contribution rate shall be computed by the actuary on the basis of each valuation as the percentage rate of the total annual compensation of all members which is sufficient to liquidate the accrued liability over a period to be determined by the board of control which shall be not less than 10 nor more than 20 years.

"The unfunded accrued liability shall be computed by the actuary as the total liabilities of the system which are not dischargeable by the assets of the Annuity Savings Fund and the Pension Accumulation Fund and the present value of the aforesaid normal contributions.

"For purposes of computing the unfunded accrued liability the assets shall be determined as follows:

"On September 30, 1997, the assets shall be determined by using the market value of such assets. For subsequent years the value of the assets shall be determined by the system's actuary using a five year smoothed market value.

"The total amount payable in each year to the pension accumulation fund shall be not less than the sum of the percentage rates known as the normal contribution rate and the accrued liability contribution rate of the total compensation earnable by all members during the preceding year.

"All interest and dividends earned on the funds of the retirement system shall be credited to the pension accumulation fund. The amounts needed to allow a regular interest on the reserves in the annuity savings fund shall be transferred in accordance with this article from the pension accumulation fund. The board of control, in its discretion, may transfer to and from the pension accumulation fund the amounts of any surplus or deficit which may develop in the annuity savings fund, or the expense fund.

"Upon the death of a member on account of whom no survivor allowance is payable under subdivisions (2) and (3) of subsection (c) of section 36-27-16, the death benefit as provided in subdivision (4) of subsection (c) of section 36-27-16 equal to the accumulated contributions, not to exceed \$5,000.00, shall be payable from the pension accumulation fund.

"(d) Expense fund. – The expense fund shall be the fund from which the expenses of the administration of the retirement system shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided in this chapter. In addition thereto and on account of each member of the retirement system, there shall be paid monthly by the employer an amount equal to a certain percentage of the earnable compensation of each member for the administrative expenses of the retirement system. The percentage rate of such contribution shall be fixed by the board of control on the basis of the cost exclusive of that provided by interest not returnable. Any amounts credited to the accounts of the members withdrawing before retirement and not returnable under the provisions of subsection (c) of section 36-27-16 shall be credited to the expense fund.

"(e) Employer's contributions. – For each biennium beginning October 1, 1965, each employer shall pay to the retirement system the

rates provided in this section and thereafter, at least 30 days preceding October 1 of each fiscal year, the board of control shall certify to the chief fiscal officer of each employer the percentage rates of earnable compensation of the members required to be paid to the retirement system in accordance with subsections (c) and (d) of this section.

"The employer's contribution on account of the membership of employees whose salaries are paid in whole or in part from funds derived from federal grants shall be paid from funds derived from said federal grants in accordance with statutes governing the administration of said grants and in proportion to salaries paid therefrom. At such time and in such manner as may be required, the board of control shall certify to each department of state receiving a federal grant the amount due and payable from said grant as the employer's contribution to the retirement system on account of the membership of said department whose salaries are paid in whole or in part from funds derived from such federal grants. The fiscal agent of the department shall authorize the state comptroller to draw a warrant or warrants in payment of the amount certified as due and payable from federal grants.

"(f) Appropriations. – There is hereby appropriated annually from the fund from which salaries of the employees of each employer are paid the amounts sufficient to carry out the provisions of this section. In the case of those departments supported wholly by transfers from other state funds, there is hereby appropriated from the supporting funds such additional amounts as may be necessary to pay the employer contribution of each department so supported in the same proportion as the other state funds contribute to the support and maintenance of such department.

"(g) Employer cost provided for in this article together with member contributions required under this article shall be paid to the Employees' Retirement System on the first day of the month following the month in which the related member salary is earned. Delinquent accounts shall accrue interest at the actuarial assumed investment rate beginning thirty days after the original due date. The member contributions for each member shall be reported to the Employees' Retirement System in a format prescribed by the Employees' Retirement System."

Section 12. Section 36-27-49.3, Code of Alabama 1975, is hereby amended to read as follows:

"§36-27-49.3.

"(a) Whenever used in this section, all words and phrases defined in Section 36-27-1 and Section 16-25-1 and Title 12, Chapter 18, shall have the same meanings ascribed to them in such sections and chapter, unless the context clearly indicates that a different meaning is intended.

“(b) Any active and contributing member of the Employees’ or Teachers’ Retirement System or any appellate judge in the Judicial Retirement Fund who has met the minimum vesting requirements under said systems and who has honorable duty consisting of active full-time military service in the Armed Forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the Armed Forces, and who has not received credit for such service toward retirement status in the Employees’ or Teachers’ Retirement System or any appellate judge in the Judicial Retirement Fund or any other public pension fund including the U.S. Armed Forces, but excluding the federal social security program, may be granted by the Board of Control, membership service for up to four years of such service in the Armed Forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in subsection (d) of this section.

“(c) For a period of six months only following April 21, 1992, any active and contributing member of the Employees’ or Teachers’ Retirement System of Alabama who has been such a member for six consecutive years or more and who has honorable duty consisting of active full-time military service in the Armed Forces of the United States, exclusive of any summer or weekend service in a reserve or national guard component of any branch of the Armed Forces, and who has not received credit for such service toward retirement status in the Employees’ or Teachers’ Retirement System or any other public pension fund including the U.S. Armed Forces, but excluding the federal social security program, may be granted by the Board of Control, membership service for up to four years of such service in the Armed Forces, provided the member received an honorable discharge on account of such service and provided further said member complies with the provisions set forth in subsection (d) of this section.

“(d) Any member eligible to claim and purchase such credit for service under subsection (b) or (c) of this section shall be awarded creditable service under the Employees’ or Teachers’ Retirement System or any appellate judge in the Judicial Retirement Fund of Alabama provided he or she, or his or her spouse pursuant to subsection (c) only, shall pay into said retirement system or fund, prior to said member’s date of retirement, a sum equal to the full actuarially determined cost for each year of service credit, as determined by the system’s actuary.”

Section 13. (a) Payment to Beneficiary or Estate for Unused Sick Leave. Any provision of law to the contrary notwithstanding, when an active and contributing member of the Teachers’ Retirement System dies while in service, the beneficiary or estate of the deceased member shall receive a monetary payment of 100 percent of the member’s

accrued and unused sick leave, not to exceed the maximum days provided in Section 16-1-18.1 of the Code of Alabama 1975. The amount of reimbursement per day for earned and unused sick leave shall be computed on the basis of the member's daily rate of pay and multiplied by the number of unused sick leave days and partial sick leave days in the deceased member's account at the time of death, not to exceed the maximum days allowed in Section 16-1-18.1 of the Code of Alabama 1975. The beneficiary shall be the designated beneficiary for Teachers' Retirement System benefits. The State Comptroller shall develop and disseminate certification of death forms to the chief executive officer of all boards, agencies, organizations, and associations participating in the Teachers' Retirement System. The certification of death forms shall contain the number of accumulated and unused sick leave days for the deceased member as well as any other information needed by the State Comptroller to calculate the amount of the benefit. The State Comptroller shall pay the calculated amount of sick leave to the deceased member's designated beneficiary or estate if the designated beneficiary is deceased.

(b) **Appropriation and Disbursement.** The Legislature shall appropriate from the Education Trust Fund to the State Comptroller for disbursement to the designated beneficiary or estate the monies necessary to fund the provisions of this section. Disbursement of funds by the State Comptroller to the designated beneficiary or estate shall be made within 30 days after receiving the appropriate documentation.

Section 14. This act shall become effective October 1, 1998, upon its passage and approval by the Governor, or its otherwise becoming law.

Approved April 27, 1998

Time: 11:01 A.M.

Act No. 98-386

H. 724 – Rep. Carter

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to authorize the Limestone County Commission to fix, regulate, and alter the costs and charges of courts in the county to finance the construction, renovation, and operation of a county jail.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

The Limestone County Commission may, by resolution duly adopted and spread upon its minutes, fix, regulate and alter the costs and charges of the courts in Limestone County to secure the funds necessary to finance the construction, renovation, and operation of a county jail

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Limestone County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the Limestone County Commission to fix, regulate, and alter the costs and charges of courts in the county to finance the construction, renovation, and operation of a county jail.

Proposed by Act _____

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 5, 1998

Passed the Senate April 27, 1998

Act No. 98-387

H. 116 – Rep. Carter

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Limestone County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Limestone County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to

participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Limestone County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Limestone County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Limestone County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House March 5, 1998

Passed the Senate April 27, 1998

Act No. 98-388

H. 779 – Reps. Layson and Collins

AN ACT

Relating to Pickens County; proposing an amendment to the Constitution of Alabama of 1901, to assess an additional fee on civil and criminal cases and other court fees in the county with the proceeds to be used for planning, designing, construction, financing, and operation of a county jail.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

In addition to any court costs or fees now or hereafter authorized, and notwithstanding any other provisions of the Constitution, including without limitation Sections 96, 104, and 105, there shall be an additional twenty five dollars (\$25) fee assessed and taxed as costs on each civil and criminal case, excluding small claims, filed in circuit court, district court, or any municipal court in Pickens County, as well as a fee not to exceed five dollars (\$5) for the service of all pleadings and other documents in connection with any such action or case. The fees may not be waived by any court unless all other fees, assessments, costs, fines, and charges associated with the cases are waived. The additional fees, when collected by the clerks or other collection officers of the courts, shall be paid into the General Fund of Pickens County to be used by the county commission for the planning, designing, construction, financing, and operation of a new county jail. This amendment shall be self-executing and shall require no enabling legislation. On the first day of the month after the retirement of the debt to finance the construction of a new county jail, the court cost fee authorized pursuant to this amendment shall expire and this amendment shall be repealed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Pickens County, proposing an amendment to the Constitution of Alabama of 1901, to assess an additional fee on civil and criminal cases and other court fees in the county with the proceeds to be used for planning, designing, construction, financing, and operation of a county jail.

Proposed by Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House April 7, 1998 as amended

Passed the Senate April 27, 1998

Act No. 98-389

H. 737 – Reps. Warren and Jackson

AN ACT

Relating to Conecuh County; proposing an amendment to the Constitution of Alabama of 1901, to assess an additional fee on civil and criminal cases with certain exceptions in the county with the proceeds to be used for planning, designing, construction, financing, and operation of a county jail and the planning, design, repair, renovation, financing, and operation of the existing courthouse.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

In addition to any court costs or fees now or hereafter authorized, and notwithstanding any other provisions of the Constitution, including without limitation Sections 96, 104, and 105, there shall be an additional forty dollars (\$40) fee assessed and taxed as costs on each civil and criminal case, excluding small claims, filed in circuit court, district court, or any municipal court in Conecuh County, as well as a fee not to exceed five dollars (\$5) for the service of all pleadings and other documents in connection with any such action or case. The fees may not be waived by any court unless all other fees, assessments, costs, fines, and charges associated with the cases are waived. The additional fees, when collected by the clerks or other collection officers of the courts, shall be paid into the General Fund of Conecuh County to be used by the county commission for the planning, designing, construction, financing, and operation of a new county jail and the planning, design, repair, renovation, financing, and operation of the existing county courthouse. When the costs of the new county jail and the renovated county courthouse have been fully paid or when the debt service on any indebtedness incurred by the county commission to finance or refinance the costs have been retired, whichever occurs later, the additional fees authorized by this amendment shall continue to be collected in all cases and shall be used to pay costs of the operation, upkeep, and maintenance of a new county jail and the renovated county courthouse. This amendment shall be self-executing and shall require no enabling legislation.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the

election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Conecuh County, proposing an amendment to the Constitution of Alabama of 1901, to assess an additional fee on civil and criminal cases with certain exceptions in the county with the proceeds to be used for planning, designing, construction, and financing of a county jail and the planning, design, repair, renovation, financing, and operation of the existing county courthouse.

Proposed by Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 5, 1998

Passed the Senate April 27, 1998

Act No. 98-390

H. 378 – Rep. Guin

AN ACT

Relating to Walker County; to propose a constitutional amendment to the Constitution of Alabama of 1901, to authorize municipal or county appointing authorities to remove members of boards, commissions, or authorities for cause.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

In Walker County, the appointing authority of any municipal or county board, commission, or authority may remove for cause any member of the board, commission, public authority, or utility appointed by the appointing authority after a hearing before the appointing authority by a two-thirds (2/3) vote.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Walker County, proposing an amendment to the Constitution of Alabama of 1901, to authorize the appointing authority of any municipal or county board, commission, public authority, or utility to remove for cause any member appointed by the appointing authority by a two-thirds (2/3) vote.

Proposed by Act_____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 19, 1998 as amended

Passed the Senate April 27, 1998

Act No. 98-391

H. 836 – Reps. Fuller, Knight (J), Houston, McAdory, Perdue, Hilliard, Spratt, Kennedy, Rogers (J), Buskey, Clark (W), Newton (D) and McClammy

AN ACT

To provide for the organization of a public corporation in the state to be known as Alabama Forensic Sciences Bond Authority; to provide for certain definitions; to designate the officers and members of the board of directors of the authority; to prescribe the powers of the authority, including the power to provide for the acquisition, provision, construction, improvement, renovation, equipping and maintenance of forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences; to implement the provisions of an amendment to the Constitution of Alabama of 1901, authorizing the state to become indebted and to sell and issue not in excess of \$17,500,000 in principal amount of general obligation bonds of the state for the purpose of providing for the acquisition, provision, construction, improvement, renovation, equipping, and maintenance of forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences; to authorize the corporation to sell and issue for the state said bonds and refunding bonds therefor contingent upon the ratification by the qualified electors of the state of said constitutional amendment authorizing such issue; to provide that the said authority shall specify the form and details of said bonds; to provide for the issuance of said bonds in series; to provide for the sale of said bonds; to provide for the temporary investment of the proceeds of said bonds; to provide for the payment of the expenses of issuance of said bonds; to provide for the issuance of refunding bonds for the purpose of refunding any outstanding bonds issued pursuant to said amendment and this act; to provide for the use of proceeds derived therefrom; and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. The legislature hereby finds and declares that it is necessary, desirable and in the public interest that the state provide adequate forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences. It is the intention of the legislature by the passage of this act to authorize the formation of a public corporation for the purposes of providing for the acquisition, provision, construction, improvement, renovation, equipping, and maintenance of such facilities and to authorize the said corporation to provide for payment of the costs of accomplishing the stated purposes by implementing that certain constitutional amendment authorizing the issuance by the state of up to \$17,500,000 principal amount of its general obligation bonds, which amendment was proposed by an act adopted at the 1998 Regular Session of the Legislature, and by issuing and selling for the state, subject to the approval of the Governor, interest bearing general obligation bonds of the state not in excess of \$17,500,000 in principal amount, as authorized by said constitutional amendment.

Section 2. Where used in this act the following words and terms shall be given the following respective meanings unless the context hereof clearly indicates otherwise:

(1) **AMENDMENT.** The amendment to the constitution of the state authorizing the issuance of the bonds.

(2) **CORPORATION.** The public corporation authorized to be created by this chapter.

(3) **BOARD OF DIRECTORS.** The board of directors of the corporation.

(4) **BONDS.** The bonds issued under the provisions of this act.

(5) **CODE.** The Code of Alabama 1975, as amended.

(6) **GOVERNMENT SECURITIES.** Any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America, including obligations of any federal agency to the extent such obligations are unconditionally guaranteed by the United States of America and any certificates or any other evidences of an ownership interest in such obligations of, or unconditionally guaranteed by, the United States of America or in specified portions thereof (which may consist of the principal thereof or the interest thereon.)

(7) **GOVERNOR.** The governor of the State.

(8) LEGISLATURE. The Legislature of the State.

(9) PERMITTED INVESTMENTS.

a. Government securities;

b. Bonds, debentures, notes or other evidences of indebtedness issued by any of the following agencies, to the extent that such obligations are secured by the full faith and credit of the United States: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Financing Bank; Federal Home Loan Banks or Federal Land Banks; or any other agency or corporation which has been or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof, the bonds, debentures, participation certificates or notes of which are unconditionally guaranteed by the United States of America;

c. Bonds, notes, pass through securities or other evidences of indebtedness of Government National Mortgage Corporation and participation certificates of Federal Home Loan Mortgage Corporation;

d. Full faith and credit obligations of any state, provided that at the time of purchase such obligations are rated at least "AA" by Standard & Poor's Rating Group and at least "Aa" by Moody's Investors Service;

e. Public housing bonds issued by public agencies or municipalities and fully secured as to the payment of both principal and interest by contracts with the United States of America, or temporary notes, preliminary notes or project notes issued by public agencies or municipalities, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America.

f. Time deposits evidenced by certificates of deposit issued by banks or savings and loan associations which are members of the Federal Deposit Insurance Corporation, or the Federal Savings and Loan Insurance Corporation, provided that, to the extent such time deposits exceed available federal deposit insurance, such time deposits are fully secured by obligations described in clauses a, b, c and e above, which at all times have a market value (exclusive of accrued interest) at least equal to such bank time deposits so secured, including interest, and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Rating Group for structured financings;

g. Repurchase agreements for obligations of the type specified in clauses a, b, c, and e above, provided such repurchase agreements are fully collateralized and secured by such obligations which have a market value (exclusive of accrued interest) at least equal to the

purchase price of such repurchase agreements and which are held by a depository satisfactory to the State Treasurer in such a manner as may be required to provide a perfected security interest in such obligations, and which meet the greater of 100 percent collateralization or the "AA" collateral levels established by Standard & Poor's Rating Group for structured financings; and

h. Uncollateralized investment agreements with, or certificates of deposit issued by, banks or bank holding companies, the senior long-term securities of which are rated at least "AA" by Standard & Poor's Rating Group and at least "Aa" by Moody's Investors Service.

(10) STATE. The State of Alabama.

(11) "Herein," "hereby," "hereunder," "hereof," and other equivalent words refer to this act as an entirety and not solely to the particular section or portion thereof in which such words are used.

The definitions set forth above shall be deemed applicable whether the words defined are used in the singular or plural. Whenever used herein, any pronoun or pronouns shall be deemed to include both singular and plural and to cover all genders.

Section 3. The Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the State Treasurer, and the Director of Finance of the state may become a corporation, with the powers and authorities hereinafter provided, by proceeding according to the provisions of this act. To become a corporation, the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the State Treasurer, and the Director of Finance shall present to the Secretary of State of Alabama an application signed by them which shall set forth:

(1) The name, official designation and official residence of each of the applicants, together with a certified copy of the commission evidencing each applicant's right to office;

(2) The date on which each applicant was inducted into office and the term of office of each of the applicants;

(3) The name of the proposed corporation, which shall be the Alabama Forensic Sciences Bond Authority;

(4) The location of the principal office of the proposed corporation, which shall be Montgomery, Alabama; and

(5) Any other matter relating to the incorporation which the applicants may choose to insert and which is not inconsistent with this chapter or the laws of the State of Alabama.

The application shall be subscribed and sworn to by each of the applicants before an officer authorized by the laws of the State of Alabama to take acknowledgments to deeds. The Secretary of State shall examine the application and, if he finds that it substantially complies with the requirements of this section, he shall receive and file it and record it in an appropriate book of records in his office.

Section 4. When the application has been made, filed and recorded, as herein provided, the applicants shall constitute a public corporation under the name proposed in the application and the Secretary of State shall make and issue to the applicants a certificate of incorporation pursuant to this act, under the great seal of the state, and shall record the same with the application. There shall be no fees paid to the Secretary of State for any work in connection with the incorporation or dissolution of the corporation so organized (which, for convenience, is herein referred to as "the corporation").

Section 5. The applicants named in the application and their respective successors in office shall constitute the members of the corporation. The Governor shall be the president of the corporation and the Director of Finance shall be the secretary of the corporation. The State Treasurer shall be the treasurer of the corporation and shall act as custodian of its funds. The members of the corporation shall constitute all the members of the board of directors of the corporation, and any three members of the said board of directors shall constitute a quorum for the transaction of business. Should any of said officials of the state die or should his term of office as Governor, Lieutenant Governor, Speaker of the House of Representatives, Director of Finance, or State Treasurer expire or should he resign therefrom, his successor in office shall take his place as a member, officer and director of the corporation, as the case may be. No member, officer or director of the corporation shall draw any salary, in addition to that now authorized by law, for any service he may render or any duty he may perform in connection with the corporation. All proceedings had and done by the board of directors shall be reduced to writing by the secretary of the corporation and recorded in a substantially bound book. Copies of such proceedings, when certified by the secretary of the corporation under the seal of the corporation, shall be received in all courts as prima facie evidence of the matters and things therein certified.

Section 6. The corporation shall have the following powers.

- (1) To have succession by its corporate name without time limit;
- (2) To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;

(3) To have and to use a corporate seal and to alter the same at pleasure;

(4) To acquire, provide, construct, improve, renovate, equip, and maintain, or transfer to public institutions in the state, forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences.

(5) To receive, take and hold by sale, gift, lease, devise or otherwise, real and personal estate of every description, and to manage the same;

(6) To acquire by purchase, gift, or the exercise of the power of eminent domain, or any other lawful means, and to transfer, convey or cause to be conveyed to the state, any real, personal or mixed property necessary or convenient in connection with the acquiring, providing, constructing, improving, renovating, equipping and maintenance of, or transfer to public institutions in the state, forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences;

(7) To exercise the right of eminent domain as freely and completely as, and in the same manner as, the state is empowered to exercise such right;

(8) To sell and issue for the state bonds and refunding bonds as provided in this act;

(9) To appoint and employ such attorneys, accountants, financial advisors, underwriters, trustees, depositories, registrars and other advisors, agents and independent contractors as the business of the corporation may require; and

(10) To enter into contracts with municipalities, counties, state agencies or institutions, or political subdivisions of the state or any other state, private persons, firms, corporations and any branch of the federal government, in furtherance of its public purposes and objects either relative to work done or to be done.

Section 7. The bonds issued pursuant to this act shall not be obligations of said corporation but shall be general obligations of the state with the full faith and credit and taxing power of the state to be pledged to the prompt and faithful payment of the principal thereof and the interest and redemption premium (if any) thereon. The proceeds from the sale of the bonds shall be used exclusively for the purposes described in the aforesaid constitutional amendment. The bonds may be sold and issued in one or more series at any time and from time to time, may have such series designations, may be in such forms, principal amounts, denominations and numbers, may be of such tenor and maturities,

may bear such date or dates, may be payable in such installments and at such time or times, may be payable at such place or places within or without the state, may bear interest at such rate or rates payable and evidenced in such manner, may contain provisions for redemption at the option of the state to be exercised by said corporation on such date or dates prior to their respective maturities and upon payment of such redemption price or prices, and may contain such other provisions not inconsistent with the provisions of the amendment and this act, all as shall be provided by the board of directors of the corporation in the resolution or resolutions pursuant to which the bonds shall be authorized, sold, and issued.

Section 8. The State Treasurer is authorized and directed to pay the principal of, premium, if any, and interest on the bonds issued under the provisions of this act, as such principal, premium, if any, and interest shall respectively mature, and he is further authorized and directed to set up and maintain appropriate records pertaining thereto.

Section 9. The bonds of each series issued pursuant to this act may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof, and the principal of the bonds of each such series shall mature or be subject to mandatory redemption according to such schedule as the board of directors of said corporation shall determine in the resolution authorizing the issuance of such series. The bonds may be made subject to redemption prior to their respective maturities, at the option of the state, on such terms and conditions as shall be provided by the board of directors of the corporation in the resolution authorizing the issuance of such series. Any or all of such bonds subject to redemption at the option of the state may be called for redemption by the corporation pursuant to a resolution adopted by the board of directors thereof if pursuant to appropriations theretofore made by the Legislature the moneys required for such redemption are at the time held in the state treasury or if such redemption is to be effected with moneys provided by the sale and issuance of refunding bonds issued pursuant to the amendment and as provided for in this act. The corporation may specify the terms and conditions under which any of the bonds authorized pursuant to the amendment may be exchanged for like bonds of other denominations as the corporation may prescribe.

Section 10. The bonds of each series thereof issued pursuant to this act shall be sold by said corporation at public sale as provided in the amendment. The bonds shall be executed in the name of the state by the Governor and countersigned by the secretary of the corporation, and the Great Seal of the state shall be

impressed thereon and attested by the Secretary of State. A facsimile of the signature of each such official may be imprinted on any of the bonds in lieu of being manually inscribed thereon, and a facsimile of the Great Seal of the state may be printed on the bonds in lieu of such seal being manually impressed thereon. Each such facsimile signature shall be valid in all respects as if the officials whose facsimile signatures are so used had signed the bonds in person, and any facsimile of the Great Seal of the state so used shall be valid in all respects as if such seal had been manually impressed on the bonds. In the event any official who shall sign any of the bonds or whose facsimile signature shall appear thereon shall thereafter cease to hold office before such bonds are delivered and paid for, such bonds shall nevertheless be valid for all purposes to the same extent as if the official who signed such bonds or whose facsimile signature appears thereon had remained in office until all of the said bonds bearing such signature or facsimile thereof shall have been delivered and paid for.

Section 11. The proceeds derived from the sale of each series of the bonds issued pursuant to this act other than refunding bonds shall be paid into the State Treasury upon receipt thereof, and the State Treasurer shall keep such proceeds, as well as all income received from the investment and reinvestment of such proceeds (including income derived from the investment and reinvestment of previously derived income), in a special fund in the State Treasury, designated "The Alabama Forensic Sciences Bond Fund," pending the expenditure of such proceeds and income for the purposes hereinafter authorized and as required by said amendment. All proceeds so deposited in the State Treasury shall be continuously invested by the State Treasurer in Permitted Investments, and as and when income from the investment of such proceeds is received, such income shall be kept continuously invested in the same manner as such proceeds. The State Treasurer, acting on projections of expenditures provided by the Director of Finance, shall keep all such proceeds, together with the income derived from the investment and reinvestment thereof, invested in investments which shall mature or otherwise be subject to liquidation on such terms as will provide cash when required for the purposes for which bonds may be issued pursuant to this act.

Section 12. Upon order of the board of directors of the corporation, all expenses incurred in connection with the authorization, preparation, sale, and issuance of bonds authorized herein and by the amendment shall be paid out of the proceeds thereof. The proceeds thereof remaining after payment of such expenses, together with the income derived from the investment and reinvestment of such proceeds (including income derived from the investment and

reinvestment of previously derived income) shall be disbursed from time to time on the order of said corporation upon the approval of the Director of Finance; provided however, such disbursements shall be used solely for the purpose of acquiring, providing, constructing, improving, renovating, equipping and maintenance of forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences.

Section 13. Pursuant to the provisions of the aforesaid amendment and this act, the corporation may, at any time and from time to time, issue for the state refunding bonds of the state for the purpose of refunding any or all of the bonds authorized by the amendment then outstanding (including any refunding bonds that may have been previously issued), whether such refunding shall occur before, at or after the maturity of the bonds to be refunded. In the discretion of the corporation, refunding bonds may be issued in exchange for such outstanding bonds or they may be sold and the proceeds thereof applied to the purchase, redemption or payment of outstanding bonds. Refunding bonds to be sold pursuant hereto may be issued in such principal amount or amounts as shall be determined by the corporation. Pending the application of the proceeds of refunding bonds issued in accordance with this section, such proceeds, together with investment income therefrom, and moneys in any sinking fund for the bonds to be refunded, together with investment income therefrom, may be held by the State Treasurer, in trust, or may be deposited by the State Treasurer, in trust, on such terms as the State Treasurer shall approve, with one or more trustees or escrow agents which trustees or escrow agents shall be trust companies or national or state banks having powers of a trust company within or without the state, for investment in direct general obligations of, or obligations the payment of the principal of and interest on which are unconditionally and irrevocably guaranteed by, the United States of America. The proceeds of refunding bonds, together with the investment income therefrom, and moneys in any sinking fund for the bonds to be refunded, together with investment income therefrom, shall be available for the payment of all or any part of the principal, interest, and redemption premium, if any, of the bonds to be refunded and of such refunding bonds, or any of them, as the said corporation in its discretion shall prescribe. Proceeds of refunding bonds shall be so invested and applied as to assure that the principal, interest, and redemption premium, if any, on the bonds to be refunded thereby shall be paid in full on their respective maturity, interest, or redemption payment dates. The State Treasurer may contract with respect to the safekeeping and application of proceeds derived from the sale and issuance of refunding bonds and other funds included therewith and the income therefrom, including the right to appoint a trustee which may be any

trust company or national or state bank having powers of a trust company within or without the state. As provided in the amendment, refunding bonds issued pursuant to the provisions of this act shall not be obligations of the Alabama Forensic Sciences Bond Authority, but shall be general obligations of the State of Alabama, and the full faith and credit and taxing power of the state are hereby irrevocably pledged for the prompt and faithful payment of the principal of all refunding bonds and the interest and redemption premium (if any) thereon. Except as herein expressly provided otherwise, all provisions of this act regarding the terms and conditions of the bonds to be issued pursuant to this act, as well as the sale, issuance, and execution thereof and the security therefor, shall apply to all refunding bonds issued hereunder; provided, however, that no refunding bonds shall be issued unless the present value of all debt service on the refunding bonds (computed with a discount rate equal to the true interest rate of the refunding bonds and taking into account all underwriting discount and other issuance expenses) shall not be greater than 95% of the present value of all debt service on the bonds to be refunded (computed using the same discount rate and taking into account the underwriting discount and other issuance expenses originally applicable to such bonds) determined as if such bonds to be refunded were paid and retired in accordance with the schedule of maturities (considering mandatory redemption as a scheduled maturity) provided at the time of their issuance. Provided further that the average maturity of the refunding bonds, as measured from the date of issuance of such refunding bonds, shall not exceed by more than three years the average maturity of the bonds to be refunded, as also measured from such date of issuance, with the average maturity of any principal amount of bonds to be determined by multiplying the principal of each maturity by the number of years (including any fractional part of a year) intervening between such date of issuance and each such maturity, taking the sum of all such products, and then dividing such sum by the aggregate principal amount of bonds for which the average maturity is to be determined.

Section 14. All bonds (including refunding bonds) issued pursuant hereto, and the income therefrom (including the interest income thereon) shall be free from all taxation by the state or any county, municipality, or other political subdivision or instrumentality of the state, excepting inheritance, estate, and gift taxes. Any bonds issued by the corporation may be used by the holder thereof as security for any funds belonging to the state or to any instrumentality or agency of the state in any instance where security for such deposits may be required by law. Unless otherwise directed by the court having jurisdiction thereof, or by the document that is the source of authority, a trustee, executor, administrator, guardian, or

one acting in any other fiduciary capacity may, in addition to any other investment powers conferred by law and with the exercise of reasonable business prudence, invest trust and other fiduciary funds in bonds of the corporation.

Section 15. All contracts for the acquisition, provision, construction, improvement, renovation, equipping and maintenance of forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences shall be in writing.

Section 16. There is hereby appropriated so much of the bond proceeds and interest income thereon as may be necessary for the acquisition, provision, construction, improvement, renovation, equipping and maintenance of forensic sciences laboratories and educational facilities for the provision of instruction and research in the field of forensic sciences Monies in the fund (whether original proceeds from the sale of the bonds or principal proceeds of matured permitted investments) shall be paid out from time to time in orders or warrants issued by or on the direction of the corporation for the purposes specified in this act that may be deemed by the corporation to be most advantageous to the state, and such monies shall be allocated and expended by the corporation, subject to all the provisions of this act, in the amounts set out as follows:

(1) \$10,000,000 to plan, design, inspect, construct, reconstruct, enlarge, improve, repair, renovate, and equip the core facility for education, training, scientific research, and highly specialized testing at the University of Alabama at Birmingham-Department of Justice to include the National Institute for Forensic Sciences.

(2) \$7,500,000 to plan, design, inspect, construct, reconstruct, enlarge, improve, repair, renovate, and equip the core facility for education, training, scientific research, and highly specialized testing at Alabama State University.

Section 17. At any time when no bonds of the corporation are outstanding the corporation may be dissolved upon the filing with the Secretary of State of an application for dissolution, which shall be subscribed by each of the members of the corporation and which shall be sworn to by each such member before an officer authorized to take acknowledgments to deeds. Upon the filing of said application for dissolution, the corporation shall cease and any property owned by it at the time of its dissolution shall pass to the State of Alabama. The Secretary of State shall file and record the application for dissolution in an appropriate book of record in his office, and shall make and issue, under the great seal of the state, a certificate that the corporation is dissolved, and shall record the said certificate with the application for dissolution.

Section 18. The Alabama Forensic Sciences Bond Authority shall, to the extent possible and practical, utilize businesses and companies in all aspects of the bond and construction sections of this bill that reflect the racial and ethnic diversity of the state.

Section 19. The corporation on behalf of the state shall have the power to provide for such payments to the United States of America as the directors deem necessary to cause the interest on any bonds to be and remain exempt from federal income taxation. The corporation shall have the power to make agreements respecting the investment of the proceeds of the bonds or other funds of the corporation necessary in order that the interest income on bonds of the corporation be and remain exempt from federal income taxation.

Section 20. If any provision of this act shall be held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provisions hereof.

Section 21. This act shall become effective upon ratification by the qualified electors of the state as a part of the Constitution of Alabama of 1901, of the amendment thereto proposed by an act adopted at the 1998 Regular Session of the Legislature which authorizes the issuance of the general obligation bonds described herein.

Approved April 27, 1998

Time: 4:25 P.M.

Act No. 98-392

H. 93 – Reps. Hawk, Fuller, Gipson
and Hall (L)

AN ACT

To amend Sections 12-15-1, 12-15-7, 44-1-2, 44-1-24, and 44-1-27, Code of Alabama 1975, and to repeal Section 44-1-26, Code of Alabama 1975; to provide for the duties of juvenile probation officers; to provide for the allocation of juvenile probation officer positions and staff positions by the Administrative Director of Courts in counties having a population of 99,000 or less according to the 1990 federal decennial census, and in Mobile County, and the allocation formula for salary subsidies in counties having a population of more than 99,000 according to the 1990 federal decennial census, except Mobile County; to provide for the appointment and dismissal of juvenile probation officers and chief juvenile probation officers; to provide for the development of minimum standards for certification of juvenile probation officers and continuing education; to establish the Juvenile Probation Services Fund in the State Treasury; to provide the schedule for the transition of juvenile probation officers from county employees to state employees; to phase out county funding of salaries and benefits for juvenile probation officers and staff providing juvenile probation services, excluding staff of juvenile detention and shelter care facilities; to provide for the classification and pay of juvenile probation officers and

staff under the state court system personnel system and the protection of current employee status and benefits of juvenile probation officers and staff during transition and after transition; to provide for state assumption of certain operating expenses and specified property; to provide for an appropriation of \$500,000 from the State General Fund to the Unified Judicial System for the fiscal year ending September 30, 1999; and to provide for an effective date.

Be It Enacted by the Legislature of Alabama:

Section 1. Juvenile probation officers are an integral part of the juvenile justice system. Juvenile probation officers perform a variety of services which are essential to the proper operation of the juvenile courts including working primarily with youths who are alleged to be delinquent or in need of supervision. It is the intent of the Legislature that a comprehensive system of juvenile probation services be developed, implemented, and administered statewide by the Administrative Office of Courts.

Section 2. Sections 12-15-1, 12-15-7, 44-1-2, 44-1-24, and 44-1-27, Code of Alabama 1975, are amended to read as follows:

“§12-15-1.

“When used in this chapter, the following words and phrases shall have the following meanings:

“(1) ADULT. An individual 19 years of age or older.

“(2) AFTERCARE. Conditions and supervision as the court orders after release of legal custody.

“(3) CHILD. An individual under the age of 18, or under 19 years of age and before the juvenile court for a matter arising before that individual’s 18th birthday.

“(4) CHILD IN NEED OF SUPERVISION. A child who does any of the following:

“a. Being subject to compulsory school attendance, is habitually truant from school.

“b. Disobeys the reasonable and lawful demands of the child’s parents, guardian, or other custodian and is beyond their control.

“c. Has committed an offense established by law but not classified as criminal or one applicable only to children.

“d. In any of the foregoing, is in need of care or rehabilitation.

“(5) COMMIT. Transfer legal and physical custody.

“(6) CONSENT DECREE. An order, entered after the filing of a delinquency petition and before the entry of an adjudication order, suspending the proceedings and continuing the case of the

child under supervision in the child's own home, under terms and conditions agreed to by all parties concerned.

“(7) **COURT or JUVENILE COURT.** The juvenile division of the district court or the juvenile division of the circuit court as established by this chapter.

“(8) **DELINQUENT ACT.** An act committed by a child that is designated a violation, misdemeanor, or felony offense under the law of this state or of another state if the act occurred in another state or under federal law or a violation of a municipal ordinance except violations of municipal curfew ordinances. The term shall not include traffic offenses committed by one 16 years of age or older, other than those charged pursuant to Section 32-5A-191 or a **municipal ordinance prohibiting the same conduct.** Additionally, the term shall not include any criminal act, offense, or violation committed by a child who has previously been transferred for criminal prosecution pursuant to Section 12-15-34 and convicted or adjudicated a youthful offender on the criminal charge.

“(9) **DELINQUENT CHILD.** A child who has committed a delinquent act and is in need of care or rehabilitation.

“(10) **DEPENDENT CHILD.** A child:

“a. Who, for any reason is destitute, homeless, or dependent on the public for support; or

“b. Who is without a parent or guardian able to provide for the child's support, training, or education; or

“c. Whose custody is the subject of controversy; or

“d. Whose home, by reason of neglect, cruelty, or depravity on the part of the parent, parents, guardian, or other person in whose care the child may be, is an unfit and improper place for the child; or

“e. Whose parent, parents, guardian, or other custodian neglects or refuses, when able to do so or when such service is offered without charge, to provide or allow medical, surgical, or other care necessary for the child's health or well-being; or

“f. Who is in a condition or surroundings or is under improper or insufficient guardianship or control as to endanger the morals, health, or general welfare of the child; or

“g. Who has no proper parental care or guardianship; or

“h. Whose parent, parents, guardian, or custodian fails, refuses, or neglects to send the child to school in accordance with the terms of the compulsory school attendance laws of this state; or

“i. Who has been abandoned by the child’s parents, guardian, or other custodian; or

“j. Who is physically, mentally, or emotionally abused by the child’s parents, guardian, or other custodian or who is without proper parental care and control necessary for the child’s well-being because of the faults or habits of the child’s parents, guardian, or other custodian or their neglect or refusal, when able to do so, to provide them; or

“k. Whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child; or

“l. Who has been placed for care or adoption in violation of the law; or

“m. Who for any other cause is in need of the care and protection of the state; and

“n. In any of the foregoing, is in need of care or supervision.

“(11) **DETENTION CARE.** The temporary care of delinquent children or children alleged to be delinquent in secure custody pending court disposition or transfer to a residential facility or further care of a child adjudicated a delinquent.

“(12) **GUARDIAN AD LITEM.** A licensed attorney appointed by a court to defend or represent a child in any action to which the child may be a party.

“(13) **INTAKE OFFICE.** The office in the probation service or designee of the judge with the duty of primary contact with the law enforcement agency and complainants of children coming under the jurisdiction of the court.

“(14) **JUDGE.** Judge of the juvenile court as prescribed by this chapter.

“(15) **LAW ENFORCEMENT OFFICER.** Any person, however denominated, who is authorized by law to exercise the police powers of the state or local governments.

“(16) **LEGAL CUSTODIAN.** A person, agency, or department, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.

“(17) **LEGAL CUSTODY.** A legal status created by court order which vests in a custodian the right to have physical custody of the child and to determine where and with whom the child shall live within the state and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, clothing, education, and ordinary medical care, all subject to the powers,

rights, duties, and responsibilities of the guardian of the person of the child and subject to any residual parental rights and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the juvenile court.

“(18) MINOR. An individual who is under the age of 19 years and who is not a “child” within the meaning of this chapter.

“(19) MULTIPLE NEEDS CHILD. A child coming to the attention of the court or one of the entities listed herein who is at imminent risk of out-of-home placement or a placement in a more restrictive environment, as a result of the conditions of emotional disturbance, behavior disorder, mental retardation, mental illness, dependency, chemical dependency, educational deficit, lack of supervision, delinquency, or physical illness or disability, or any combination thereof, and whose needs require the services of two or more of the following entities: Department of Youth Services, public school system (services for exceptional needs), Department of Human Resources, Department of Public Health, juvenile court probation services, or Department of Mental Health and Mental Retardation.

“(20) PROBATION. The legal status created by court order following an adjudication of delinquency or in need of supervision whereby a child is permitted to remain in a community subject to supervision and return to court for violation of probation at any time during the period of probation.

“(21) PROBATION SERVICES. The performance of any of the following:

“a. The making of investigations, reports, and recommendations to the court as directed by law.

“b. The receiving and examining of complaints and charges of delinquency for the purpose of considering the commencement of proceedings under law.

“c. The supervision of a child placed on probation by order of the court.

“d. The supervision of a child placed on aftercare by order of the court.

“e. The making of appropriate referrals to other private or public agencies of the community, if their assistance appears to be needed or desirable.

“f. The taking into custody and detaining of a youth who is under the supervision and care of the Department of Youth

Services as a delinquent where there is reasonable cause to believe that the health or safety of the youth or that of another is in imminent danger, or that he or she may abscond or be moved from the jurisdiction of the court, or when ordered by the court pursuant to the Juvenile Code.

“g. The performing of all other functions designated by the Juvenile Code or by order of the court pursuant thereto.

“(22) PROTECTIVE SUPERVISION. A legal status created by court order following an adjudication of dependency whereby a child is permitted to remain in the child’s home subject to supervision and to return to the court for violation of protective supervision at any time during the period of protective supervision.

“(23) RESIDENTIAL FACILITY. A dwelling, other than a detention or shelter care facility, providing living accommodations, care, treatment, and maintenance for children, including institutions, foster family homes, group homes, half-way houses, and forestry camps, and, where not operated by a public agency, licensed, or approved to provide the care.

“(24) RESIDUAL PARENTAL RIGHTS AND RESPONSIBILITIES. Those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including, but not necessarily limited to, the right of visitation, the right to consent to adoption, the right to determine religious affiliation, and the responsibility for support.

“(25) SHELTER CARE. The temporary care of children in group homes, foster care, or other nonpenal facilities.

“§12-15-7.

“(a) For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a probation officer shall perform all of the following duties:

“(1) Make investigations, reports and recommendations to the juvenile court.

“(2) Receive and examine complaints and allegations of delinquency, in need of supervision, or dependency of a child for the purpose of considering the commencement of proceedings under this chapter.

“(3) Refer to the Department of Human Resources for investigations, reports, and recommendations those complaints and allegations of dependency or other appropriate matters and may refer to the Department of Human Resources for investigations, reports,

and recommendations those complaints on children in need of supervision.

“(4) Supervise and assist a child placed on probation or in his or her protective supervision or aftercare by order of the court or other authority of law.

“(5) Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable.

“(6) Make predisposition studies and submit reports and recommendations to the court as required by this chapter, except as provided in subdivision (3) of this subsection.

“(7) Collect and compile statistical data and file such reports as may be required by the Administrative Director of Courts Pursuant to Section 12-5-10(1). The reports may include, but shall not be limited to, statistical data, case studies, and research materials.

“(8) Collect and compile data and file reports required by the Department of Youth Services.

“(9) Perform other functions as are designated by this chapter or directed by the court.

“(b) For the purposes of this chapter, a probation officer or representative of the Department of Human Resources, with the approval of the court, shall have the power to take into custody and place in shelter or detention care a child who is under his or her supervision as a delinquent, in need of supervision, or dependent when the probation officer or representative of the Department of Human Resources has reasonable cause to believe that the child has violated the conditions of his or her probation, aftercare, or terms of protective supervision or that he or she may flee from the jurisdiction of the court. A probation officer does not have the powers of a law enforcement officer with respect to a person who is not on probation or otherwise under his or her supervision.

“(c) If a probation officer or representative of the Department of Human Resources takes a child into custody, he or she shall proceed as provided for in Section 12-15-58.

“§44-1-2.

“The following terms, wherever used in this chapter, shall have the following meanings:

“(1) **AFTERCARE.** A youth is released by the department from a state training school operated by the department, wherein the department releases legal custody, supervision, and the right

to return until further order of the juvenile court. The term means a legal status created by order of the committing court at the time of release from a state training school whereby a youth is permitted to return to the community subject to supervision by the court or any agency designated by the court and subject to return to the court at any time during the aftercare period.

“(2) BOARD. The Alabama youth services board.

“(3) BOARD MEMBER. Any member of the Alabama youth services board.

“(4) COMMITTED YOUTH. Any youth committed to the legal custody of the department upon a finding of delinquency and a finding by a juvenile judge that the youth is in need of care or treatment, or both, in a state training school. The terms shall not include any youth committed upon a finding of in need of supervision or dependency.

“(5) DEPARTMENT. The department of youth services established in this chapter.

“(6) DETENTION or DETENTION CARE. Temporary care in a detention facility.

“(7) DETENTION FACILITY. A facility licensed by the department, other than a jail, affording secure custody for children and youths.

“(8) DIRECTOR. The Alabama youth services director.

“(9) DISCHARGE. A complete release of a committed youth by the department without further supervision.

“(10) FOSTER CARE FACILITY or GROUP HOME. Any place providing care for one or more youths alleged or adjudicated delinquent, exclusive of the state training schools.

“(11) GUARDIAN. Any parent who has legal custody of the person or property of a youth or a person or agency who has custody of the person or property of the youth pursuant to a court order.

“(12) JUVENILE COURT. Any court having jurisdiction over juveniles pursuant to Amendment No. 328 of the Constitution of Alabama of 1901 and Title 12.

“(13) JUVENILE CODE. Chapter 15 of Title 12.

“(14) LEGAL CUSTODY. A legal status created by a court order embodying all of the following rights and responsibilities:

“a. The right to have physical possession of the youth.

"b. The right and the duty to protect, train, and discipline him or her.

"c. The responsibility to provide him or her with food, clothing, shelter, education, and medical, dental, and hospital care.

"d. The right to determine where and with whom the youth shall reside.

"(15) MAINTENANCE. All general expenses for care including food, clothing, shelter, education, and medical, dental, and hospital care, transportation, and other necessary or incidental expenses or money payments therefor.

"(16) PROBATION. A legal status created by a court order following adjudication in a delinquency or in need of supervision case whereby a youth is permitted to remain in the community, subject to supervision by the court or any agency designated by the court and subject to return to the court at any time during the probation period.

"(17) STATE. The state of Alabama.

"(18) TRAINING SCHOOL. An institution operated by the department for the rehabilitation of delinquent youth.

"(19) YOUTH. Prior to January 1, 1978, the term means an individual under the age of 17 or under 19 years of age who committed the act of delinquency with which he or she is charged before reaching the age of 17 years. After December 31, 1977, the term means an individual under the age of 18 or under 19 years of age who committed the act of delinquency with which he or she is charged before reaching the age of 18 years, and for the purpose of continuing to provide services only, jurisdiction obtained by the court in the case of a youth shall be retained by the court until the youth becomes 21 years of age unless terminated prior thereto by order of the judge of the juvenile court.

"(20) YOUTH SERVICES. The duties and functions which are authorized or required by this chapter to be provided by the department with respect to the establishment and enforcement of standards of treatment for youths.

"§44-1-24.

"The department of youth services shall perform the following:

"(1) Provide services for youths who have run away from their own communities in this state or from their home communities in other states to this state, and provide such services, care, or cost for the youths as may be required pursuant to the provisions of the Interstate Compact on Juveniles.

“(2) Provide for the expansion of local detention care for youths alleged to be delinquent pending court hearing.

“(3) Secure the provision of medical, hospital, psychiatric, surgical, or dental service, or payment of the cost of such services, as may be needed for committed youths.

“(4) License and subsidize foster care facilities or group homes for youths alleged to be delinquent pending hearing before a juvenile court or adjudged delinquent following hearing, including detention, examination, study, care, treatment, and training.

“(5) Establish, maintain, and subsidize programs to train employees of the department, juvenile courts, and law enforcement personnel in such subject matters and techniques as may be necessary to assure efficient and effective administration of services in accordance with the purpose of this chapter.

“(6) Make and enforce all rules and regulations which are necessary and appropriate to the proper accomplishment of the duties and functions vested in the department by law with respect to youth services and which do not conflict with or exceed the provisions of law vesting the duties and functions in the department.

“(7) Enter into contracts with any other state or federal agency or with any private person, organization, or group capable of contracting, if the department finds the action to be in the public interest.

“(8) Upon approval of the attorney general, file and prosecute civil actions in any court in the name of the department to enforce this chapter and enforce such rules and regulations as may be promulgated under this chapter. Civil actions may include actions for an injunction to restrain any person, agency, or organization from violating any provision of this chapter or any rule or regulation promulgated under this chapter.

“(9) Accept gifts, trusts, bequests, grants, endowments, or transfers of property of any kind and prudently to manage the property in accordance with sound financial principles.

“(10) Prescribe and furnish forms to clerks of probate and juvenile courts for use in connection with any action to be taken under this chapter.

“(11) Enter into reciprocal agreements with appropriate agencies of other states relative to youth services programs.

“(12) Engage in research in the field of youth services, enter into contracts with public or voluntary organizations, including educational institutions, and with individuals for the purpose of

securing research and to make provisions for any pay grants to such organizations or individuals in accordance with the rules of the department, as may be necessary to secure the performance of the research.

“§44-1-27.

“(a) The department of youth services shall establish and promulgate reasonable minimum standards for the construction and operation of detention facilities, programs for the prevention and correction of youth delinquency, consultation from local officials, and subsidies to local delinquency projects. The standards shall include, but not be limited to, reasonable minimum standards for detention facilities, foster care facilities, group homes, and correctional institutions.

“(b) No county, city, public or private agency, group, corporation, partnership, or individual shall establish, maintain, or operate any detention facility or any foster care facility for youths found delinquent or in need of supervision by a juvenile court without a license from the department. A license shall be required on an annual basis or as determined by the department. The department shall revoke the license of any city, county, or public or private agency, group, corporation, or individual conducting, operating or acting as a detention facility or foster care facility caring for children and youths alleged or adjudged to be delinquent or in need of supervision that fails to meet the standards prescribed by the department. The department may visit and inspect any public or voluntary detention facility, foster care facility, or group home as it deems necessary.

Section 3. (a) Beginning October 1, 1998, the Administrative Director of Courts shall promote the delivery of juvenile probation services for youths alleged or adjudged to be delinquent or in need of supervision, establish and promulgate reasonable minimum standards for initial and continuing certification of juvenile probation officers, and verify any applicant meeting these standards for the position of juvenile probation officer.

(b) The Administrative Director of Courts may establish and schedule in service education and training for juvenile probation officers which shall include training and educational programs to enable juvenile probation officers to meet the minimum standards established pursuant to this section. Juvenile probation officers in counties having a population of 99,000 or less according to the 1990 federal decennial census may attend judicial colleges, including, but not limited to, programs of the Alabama Judicial College, institutes, seminars, conference, or other meetings concerning probation and aftercare services, juvenile justice, and the administration of

justice, in or outside of the State of Alabama, as may be approved by the Administrative Director of Courts. Written authorization, as required by Section 36-7-21, Code of Alabama 1975, shall be obtained in advance for any education-related travel outside the State of Alabama. Juvenile probation officers from counties having a population of 99,000 or less according to the 1990 federal decennial census shall receive reimbursement for their expenses at the same rates and pursuant to the same rules and regulations applicable to other court personnel when attending approved seminars, institutes, conferences, judicial colleges, or meetings.

Section 4. There is created in the State Treasury a fund to be designated as the Juvenile Probation Services Fund. All funds now or hereafter deposited to the credit of the Juvenile Probation Services Fund shall be expended for the purposes of carrying out the provisions of this act which shall include, but not be limited to, providing juvenile probation services for children alleged or adjudged to be delinquent or in need of supervision, salaries and related costs for juvenile probation officers, salaries and related costs for other professional and support staff for juvenile probation services, training and education of juvenile probation officers and staff, research, equipment, printing, supplies, state administrative office support staff, or any other purpose consistent with the purposes of this act in counties having a population of 99,000 or less according to the 1990 federal decennial census and for providing salary subsidies for juvenile probation officers in counties having a population of more than 99,000 according to the same census. All funds now or hereafter deposited to the Juvenile Probation Services Fund from appropriations, grants, gifts, donations, bequests, loans, or any other source, public and private, shall be expended for the purposes of carrying out the provisions of this act. Notwithstanding the foregoing, no funds shall be withdrawn or expended for any purpose unless the funds have been appropriated by the Legislature and any sums so appropriated shall be budgeted and allotted pursuant to the Budget Management Act and Article 4 of Chapter 4 of Title 41 of the Code of Alabama 1975. Except for appropriations from the State General Fund or the Education Trust Fund, receipts to the Juvenile Probation Services Fund shall not revert at the end of the fiscal year and shall remain in the fund. Funds from the Juvenile Probation Services Fund shall be appropriated annually to the Unified Judicial System to be expended for the purposes of this act or any other purposes specified herein.

Section 5. (a) On October 1, 1998, all duties currently assigned to the Department of Youth Services relating to the establishment of minimum standards and the certification of juvenile

probation officers, providing continuing education for juvenile probation officers, and allocating salary subsidies to the counties for authorized juvenile probation positions, shall be transferred to the Administrative Office of Courts.

(b) On October 1, 1999, the juvenile probation officers and other juvenile probation personnel in any county having a population of 99,000 or less according to the 1990 federal decennial census shall be transitioned to the state court system personnel system administered by the Administrative Office of Courts. The aforementioned personnel shall not include any personnel providing services for detention or shelter care facilities.

Section 6. (a) On the effective date of this act, any juvenile probation officer serving the juvenile court and any clerical employee or professional staff member who supports the juvenile probation officers shall become the base group of employees to be transitioned to be employees of the State of Alabama and be included in the state court system personnel system. The foregoing provision shall have no application or effect as to any position that is established and filled after passage of this act, unless prior written approval for the additional position is provided by the Administrative Director of Courts, not shall it apply to any position or employee whose primary responsibility involves support to a juvenile detention or shelter care facility. Any controversy regarding the composition of that class of persons or positions qualifying as court personnel under this act shall be determined by the Administrative Director of Courts whose decision shall be final.

(b) Beginning October 1, 1998, the Administrative Office of Courts shall provide salary subsidies to each county for juvenile probation officers and shall continue those subsidies until the beginning of the fiscal year in which the juvenile probation officers are assumed by the state court system personnel system.

(1) The Administrative Office of Courts shall allocate salary subsidies to each county for juvenile probation officers on the basis of one salary subsidy per 15,000 population or a fraction thereof. Provided, however, if legislation is enacted to provide additional salary subsidies for additional juvenile probation officers, the salary subsidy ratio as provided herein shall be adjusted accordingly. The last federal decennial census shall be used for these calculations. If there are counties with a population of less than 30,000 which do not provide matching funds, the salary of one probation officer may be fully funded per county.

(2) The Administrative Office of Courts shall expend funds to provide a salary subsidy of twenty-two thousand dollars (\$22,000)

or one-half of the total salary actually paid to a juvenile probation officer, whichever is greater, for the number of probation officers' subsidies provided to a county in the formula in subdivision (1). The subsidy shall be paid to each county only for juvenile probation officers authorized and employed. Employment for purposes of this subdivision includes temporary vacancies of 30 days or less. Salary rates and ranges for juvenile probation officers shall be established by county personnel boards, county commissions, or any other local entities. These salary rates and ranges shall be adjusted to reflect a minimum salary for juvenile probation officers of twenty-two thousand dollars (\$22,000) effective October 1, 1994. In adjusting the salary rates and ranges of juvenile probation officers, no county shall reduce the portion it pays for any probation officer salary below the salary level in effect on January 1, 1994.

(3) On the first day of the fiscal year in which the juvenile probation officers of a county are transitioned to the state court system personnel system, juvenile probation officer salary subsidies shall no longer be paid to that county. Counties having a population of more than 99,000 according to the 1990 federal decennial census shall continue to receive salary subsidies as provided in subdivisions (1) and (2)

Section 7. In counties having a population of 99,000 or less according to the 1990 federal decennial census, after the state assumes responsibility for salaries and benefits of juvenile probation officers and staff of juvenile probation services, financial support from those counties for these functions shall be phased out over a five-year period. In the initial year of each county's transition, the county shall pay to the Juvenile Probation Services Fund in the State Treasury a sum equal to the total amount expended by the county during fiscal year 1997-98 for salaries and fringe benefits of juvenile probation officers, excluding the amount reimbursed by the state through salary subsidy payments, and staff of juvenile probation services as well as expenditures for supplies, travel, and administrative costs which can be documented. Each county shall enter into a contract with the state which establishes the amount to be paid and the terms of payments over the years of transition. The amount shall specifically exclude the salaries of staff and expenses of juvenile detention facilities and shelter care facilities. For each of the years two through five after transition begins, the annual amount paid by each county to the state shall be reduced by an additional 20 percent of the initial year's amount so that at the end of the five-year period, the county shall not remit any reimbursement to the state. Remittance for the reimbursement from the county shall be made by the tenth of each month to the Juvenile Probation Services Fund in the State Treasury.

Section 8. On or after October 1, 1999, the allocation of positions or salary subsidies in juvenile probation services shall be as follows:

(1) In counties having a population of more than 99,000 according to the 1990 federal decennial census, the Administrative Office of Courts shall provide salary subsidies for juvenile probation officers on the basis of one salary subsidy per 15,000 population or fraction thereof. Provided, however, if legislation is enacted to provide additional salary subsidies for additional juvenile probation officers, the salary subsidy ratio as provided herein shall be adjusted accordingly. The Administrative Office of Courts shall expend funds to provide a salary subsidy in accordance with subsection (b) of Section 8. This subsidy shall be paid to the counties only for juvenile probation officers authorized and employed. Employment for purposes of this subsection includes temporary vacancies of 30 days or less. Salary rates and ranges for juvenile probation officers in these counties shall be established by county personnel boards, county commissions, or any other local entity, but shall reflect a minimum salary of twenty-two thousand dollars (\$22,000). Nothing herein shall be construed to prohibit any juvenile probation officer from being covered by the provisions of any local act establishing a local merit system or personnel board in counties having a population of more than 99,000 according to the 1990 federal decennial census.

(2) The juvenile court in counties having a population of more than 99,000 according to the 1990 federal decennial census may appoint one or more juvenile probation officers, as authorized by law and certified by the Administrative Office of Courts, who shall serve at the pleasure of the court. If more than one juvenile probation officer is appointed, one may be designated by the court as the chief probation officer or director of juvenile probation services. The chief probation officer or director of juvenile probation services shall be responsible for the administration of juvenile probation services under the direction of the court.

(3) In counties having a population of 99,000 or less according to the 1990 federal decennial census, the Administrative Director of Courts shall consult with each juvenile court judge and the presiding circuit court judge to determine the need for juvenile probation officers and other staff to support the juvenile probation services within that county. The Administrative Director of Courts shall develop a statewide assessment for juvenile probation services and criteria for allocating juvenile probation officers and other staff in counties having a population of 99,000 or less according to the 1990 federal decennial census. Based upon the statewide allocation criteria, juvenile probation officer and support staff positions shall be allocated to each county by the Administrative Director of Courts. After the effective

date for the transition of a county, the presiding juvenile court judge may appoint juvenile probation officers and other support staff to positions approved by the Administrative Director of Courts based upon the allocation criteria for the proper functioning of the juvenile court within the county and subject to funding available at the time of the appointment. The implementation of an allocation formula based upon the statewide assessment and the criteria for allocation shall not affect those persons serving as juvenile probation officers or juvenile probation staff on the effective date of this act.

Section 9. On or after October 1, 1999, each of the following shall occur:

(1) In each county having a population of 99,000 or less according to the 1990 federal decennial census, all juvenile probation officers and employees covered by this act, and any future employees occupying covered positions, shall be under the direct supervision of the presiding juvenile court judge.

(2) All juvenile probation officers in counties having a population of 99,000 or less according to the 1990 federal decennial census shall be state employees and shall be subject to the procedures of the state court system personnel system. All appointments of juvenile probation officers for authorized positions within a county shall be made by the presiding juvenile court judge, subject to the approval of the Administrative Director of Courts. Persons so appointed shall not be a part of the merit system in the state court system personnel system. Any dismissal of a juvenile probation officer, except those appointed as chief juvenile probation officers or directors of probation services, shall be for good cause and shall be subject to review by the Administrative Director of Courts. Juvenile probation officers who are subject to appointment and dismissal procedures pursuant to a local government merit system immediately prior to October 1 of the year of transition shall be subject to all merit system procedures established by the Administrative Director of Courts for other merit employees in the state court system personnel system.

(3) If there is more than one juvenile probation officer in a county having a population of 99,000 or less according to the 1990 federal decennial census, the presiding juvenile court judge may appoint a chief juvenile probation officer or director of probation services who shall be responsible for the administration of the juvenile probation services under the direction of the juvenile court. If there is only one juvenile probation officer in a county, the presiding juvenile court judge may designate that juvenile probation officer as the chief juvenile probation officer or director of probation services. The chief juvenile probation officer or director of probation

services shall serve in that position at the pleasure of the appointing juvenile court judge. Any person appointed as chief juvenile probation officer or director of probation services who previously served as a juvenile probation officer within the circuit or district, may return to juvenile probation officer status and may be appointed to a vacant juvenile probation officer position within the circuit or district. If there is no vacancy in the circuit or district, the position of the individual shall be terminated without prejudice.

(4) Any employee, on the effective date for the transition of a county having a population of 99,000 or less according to the 1990 federal decennial census, or hereafter appointed to a position in juvenile probation services, other than chief juvenile probation officers, directors of probation services, or juvenile probation officers, covered by this act and any future employee occupying those positions, shall be subject to the same merit system procedures of employment as apply to merit employees in the state court system personnel system.

Section 10. (a) Class specifications and rates of compensation for employees covered by this act, juvenile probation officers, juvenile probation professional staff, and clerical staff, hereafter called "eligible employees," and any future employees occupying those positions shall be established by the Administrative Director of Courts. Notwithstanding the foregoing, the compensation of any employee shall not be diminished as a result of his or her inclusion in the state court system personnel system.

(b) Eligible employees included in the state court system personnel system pursuant to this act shall, on October 1 of the year their county transitions, be covered by the Employees' Retirement System. An employee who on that date is participating in a local retirement plan other than a unit administered by the **Employees' Retirement System** may, by written notice filed with both the Administrative Director of Courts and the administrator of the local retirement plan within 30 days prior to the date the employee joins the state court system personnel system, elect to retain instead membership in the local retirement plan. Upon election of an employee and notice from the local retirement program of the employer retirement contribution rate attributable to the employee, the Administrative Director of Courts shall pay to the local retirement plan the employer contribution for any employee electing to retain local plan membership. The employer contribution paid by the state to the local retirement plan shall not exceed the employer contribution paid by the state for eligible members transferring to the Employees' Retirement System. The county shall pay into the local plan any additional amount necessary to fully fund the employer contribution pursuant to the local retirement plan.

(1) Eligible employees who have participated in retirement programs with units of local government, whether or not the local programs have utilized the state employees' retirement plan to administer the funding of the plans, shall receive credit for prior service for which they have been given credit under the local retirements programs. When an eligible employee joins the Employees' Retirement System, the total of all employer and employee contributions plus any other amounts, including, but not limited to, interest attributable to the account of the employee to which the employee would have had the right to receive upon withdrawal from the local retirement program, shall be transferred immediately into the Employees' Retirement Fund on account of the employee under the same rules and regulations applicable to other members of the Employees' Retirement System on the date the employee joins the Employees' Retirement System. Amounts transferred shall not exceed the amount that would have been received on behalf of the employee had the employee been participating in the Employees' Retirement System for the length of his or her creditable service. Any contribution represented by annuities purchased by or through the previous employer on account of the employment therewith of any eligible employee and for his or her individual benefit shall be immediately cashed out and the proceeds transferred along with any other regular contributions to the Employees' Retirement System.

(2) Eligible employees who have participated in unfunded local retirement programs or who have not participated in retirement programs with units of local government shall be granted prior service credit by the Employees' Retirement System, based on length of previous service in any position in juvenile probation services covered by this act, to a maximum of five years. The Secretary-Treasurer of the Employees' Retirement System shall authorize and direct the Comptroller to pay from the Juvenile Probation Services Fund the cost of granting prior service credit in the amounts determined to be necessary, and the Comptroller shall pay those amounts as necessary for both employer and employee contributions into the Employees' Retirement Fund on account of the eligible employee under the same rules and regulations applicable to other members of the Employees' Retirement System. In addition to the five-year prior service credit described above, any eligible employee may purchase prior service credit in any position covered by this act, not to exceed actual years served, by direct payment to the Employees' Retirement System, within one year after October 1 of the year of transition in an amount as determined to be necessary by the Employees' Retirement System for the prior service credit desired.

(3) Any unresolved issues relating to the Employees' Retirement System, including eligibility, membership, benefits, or any other similar question shall be determined by the Board of Control of the system.

(c) The Administrative Office of Courts shall consult with each local personnel system prior to October 1 of the year of transition, to determine the existence of any formal leave accounting system for the benefit of those persons joining the state court system personnel system, as provided in this act. "Formal leave accounting system" as used herein refers to a system with an established written policy wherein annual and sick leave are earned in specified increments and leave balances for each employee are maintained on individual leave accounting cards or can be calculated based on supportive documentation.

(1) Each local personnel system operating a formal leave accounting system for the benefit of any employee covered by this act shall certify to the Administrative Director of Courts the balance of all annual and sick leave credited to each employee's leave account as of the close of business on September 30 of the year prior to transition. Upon receipt of a properly certified leave balance from the appropriate county commission, the Administrative Director of Courts shall credit an individual's leave accounting card with all unused annual and sick leave to which he or she was entitled on September 30 of the year prior to transition. Notwithstanding the foregoing, no individual shall be credited with more than 480 hours of annual leave nor more than 1,200 hours of sick leave for any service rendered prior to his or her inclusion in the state court system personnel system, except that any sick leave earned in excess of this maximum may be credited as a sick leave reserve which may be restored to the employee's sick leave account if that employee suffers an extended illness or disability which results in a depletion of his or her sick leave balance.

(2) Employees entering the state court system personnel system on October 1 of the year of transition, herein provided, who were not previously covered by a formal leave accounting system shall begin participation in the leave accrual program.

(3) It shall be the responsibility of each county commission to certify to the personnel division of the Administrative Office of Courts, for eligible employees covered by this act, their total service through September 30 of the year prior to transition. For eligible employees in counties maintaining a formal leave accounting system, each county shall certify the employee's total service with the county. For eligible employees in counties without a formal leave accounting system, certification shall include only the dates of employment in any position covered by this act. An employee's leave

accumulation rate shall then be established based on such service, and he or she shall begin earning leave on October 1 of the year of transition, in accordance with the rules and regulations applicable to other employees in the state court system personnel system.

(4) No compensatory leave shall be transferred to the state court system personnel system.

(d) On October 1 of the year of transition, all employees covered by this act and any future employees occupying positions covered by this act shall be included in the health insurance plan for employees of the State of Alabama under the same rules and regulations applicable to other employees covered by that plan. Any waiting periods applicable to coverage that would otherwise be applicable to an employee joining the state's service are specifically waived for employees covered by this act who have at least nine months service prior to transition and provided further that upon receipt of proof at least 30 days prior to October 1 of the year of transition, from any covered employee that his or her family health insurance coverage was furnished as a supplemental benefit to his or her employment immediately prior to his or her inclusion in the state court system personnel system, the Administrative Director of Courts shall pay the cost of family coverage under the state health plan for the individual. In lieu of coverage in the health insurance plan for state employees as provided herein, any employee covered by this act may elect instead to continue to participate in the insurance program provided to the employees of the local governmental unit. Notice of election shall be filed by the individual both with the Administrative Director of Courts and the local governmental unit providing the coverage at least 30 days prior to the date the employee joins the state court system personnel system. Upon receiving notification, the state shall reimburse the local governmental unit for the cost of providing this insurance coverage to the employee. Should conditions cause this local governmental unit to alter or discontinue the insurance coverage offered to its employees after the transition date, any employee covered by this act electing to participate in the local governmental health insurance program shall be treated as any other employee of the local governmental unit. If any alterations in coverage made by the local governing body are unacceptable to the employee covered by this act electing to participate in the local insurance program, the Administrative Director of Courts may take all reasonable action necessary to procure the same or substantially the same coverage in substantially the same amounts as was in effect on January 1 of the year of transition. In any instance where the Administrative Director of Courts is unable to procure the same or substantially the same coverage as herein provided, he or she shall notify the employee who shall then be included in the health insurance plan for employees of the State of Alabama under the same provisions as applicable to employees covered by this act who

joined the plan on October 1 of the year of transition. Any covered employee who elects to retain coverage under any local insurance program as provided herein, may, during any period of open enrollment as specified by the State Employees' Insurance Board, elect to come under the state employees' health insurance plan in lieu of any local insurance program. The election shall be made in accordance with any procedure prescribed by the State Employees' Insurance Board, with a written copy of the notice being filed with the Administrative Director of Courts. All waiting periods applicable to coverage that would otherwise apply to other employees joining the state service of their dependents, shall also apply to any person making an election under this subsection. All questions regarding coverage under the health insurance plan for employees of the State of Alabama as provided in this act shall be directed to the State Employees' Insurance Board for its determination.

Section 11. (a) Except as otherwise provided in this act, the operating expenses for the employees and positions covered by this act shall be paid by the state from funds appropriated annually to the Unified Judicial System from the Juvenile Probation Services Fund beginning on October 1 of the year of transition for counties having a population of 99,000 or less according to the 1990 federal decennial census. The expenses shall include, but not be limited to, the salary and expenses of all eligible employees and positions, training and education for juvenile probation officers and other staff, research, equipment, supplies, and state administrative staff. Staff and administrative expenses of juvenile detention facilities and shelter care facilities are specifically excluded from the assumption.

(b) Upon the effective date of this act, the Administrative Director of Courts shall forthwith inventory all county-owned property primarily being used by those employees covered by this act at the time of its passage in counties have a population of 99,000 or less according to the 1990 federal decennial census. The inventory shall include all equipment, furniture, and supplies utilized in the operation of the juvenile probation offices, with the exception of any county-owned automobiles. The inventory shall indicate where the property is located, the type and classification of property, its age, its purchase or estimated purchase cost where actual cost data is not available, and the county or other government agency possessing title prior to state assumption. The juvenile probation officers and staff shall provide assistance in the formulation of the inventory as requested by the Administrative Director of Courts. The Administrative Director of Courts shall submit the inventory to the county commission for its review and consideration and the county commission shall, within 60 days after receipt thereof, elect in writing to transfer the property to the state or to retain ownership of the property and agree to be responsible for its maintenance and replacement.

(c) Office space and utilities, except long distance telephone service, for all employees in positions covered by this act shall continue to be provided and maintained by the counties.

Section 12. Nothing in this act shall diminish or adversely affect any program or service for children currently provided by a county to its respective juvenile court which is not assumed by the state under this act including, but not limited to, programs of financial assistance for juvenile probation and aftercare services, probation-related projects, detention and shelter care programs, and treatment programs for juveniles under the jurisdiction of the court.

Section 13. (a) There is created a study commission to evaluate the feasibility and effectiveness of transferring to state employee status the juvenile probation officers and staff in counties having a population of more than 99,000 according to the 1990 federal decennial census. The commission shall be composed of one person appointed by the Administrative Office of Courts, one person appointed by the Association of County Commissions of Alabama, one person appointed by the Alabama Association of County Commission Clerks and Administrators, one person appointed by the Council of Chief Probation Officers, one person appointed by the juvenile court judges, one person appointed by the Speaker of the House of Representatives, and one person appointed by the Lieutenant Governor. The commission shall meet on or before October 1, 1998, and shall at that time elect a chair and such other officers as it deems necessary. The first meeting of the commission shall be called by the Administrative Director of Courts. The Administrative Office of Courts shall provide staff and technical assistance to the commission.

(b) The commission shall present its report to the Legislature on or before the fifth legislative day of the 2000 Regular Session.

Section 14. Notwithstanding the provisions of this act to the contrary, and the population of Mobile County, wherever this act refers to counties having a population of more than 99,000 according to the 1990 federal decennial census, Mobile County shall not be included and wherever this act refers to counties having a population of 99,000 or less according to the 1990 federal decennial census, Mobile County shall be included.

Section 15. (a) All laws or parts of laws, both general and local, and any rules or portions of rules adopted by the Supreme Court which conflict with this act are expressly repealed. The provisions of this act are cumulative and shall not be construed to repeal or supersede any laws not inconsistent herewith.

(b) The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

(c) The provisions of this section shall not be construed as repealing any local act which is in effect upon the passage of this act and which provides for the collection of additional court costs to be placed in a fund in the county treasury for the general use and maintenance of the juvenile probation office. Any local acts are amended so as to provide that the funds so collected and deposited in the county treasury shall not be utilized for the purpose of supplementing the salary of any juvenile probation officer, but shall, after the effective date of this act, be utilized for probation service activities as may be directed by the juvenile court judge, the provisions of any local act to the contrary notwithstanding.

Section 16. There is hereby appropriated five hundred thousand dollars (\$500,000) to the Unified Judicial System from the State General Fund for the fiscal year ending September 30, 1999, to initiate the implementation of this act.

Section 17. Section 44-1-26, Code of Alabama 1975, repealed.

Section 18. This act is contingent upon enactment of House Bill 92 of the 1998 Regular Session into law and receipt by the state of funds to substantially fund House Bill 92 from any tobacco related litigation, settlement, assessment, or federal or state legislation. If these contingencies are met, this act shall become effective July 1, 1998, after its passage and approval by the Governor, or upon its otherwise becoming a law, except that the amendment of Sections 44-1-2, 44-1-24, and 44-1-27, and repeal of Section 44-1-26, Code of Alabama 1975, shall become effective October 1, 1998.

Approved April 27, 1998

Time: 4:45 P.M.

Act No. 98-393

H. 777 – Reps. Warren and Jackson

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Conecuh County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No person elected or appointed Sheriff of Conecuh County, or any elected or appointed Conecuh County official, may assume a supernumerary office after the effective date of this amendment.

Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every sheriff and other elected or appointed Conecuh County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Conecuh County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, school board member, or any official elected from a judicial circuit. All costs associated with the purchase of prior service credit as prescribed in Section 36-27-6.1, Code of Alabama 1975, shall be the responsibility of the official making the purchase.

Section 2. An election upon the proposed amendment shall be held at the same time as the June 1998 primary election and shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the June 1998 primary election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Conecuh County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act_____."

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House March 12, 1998

Passed the Senate April 27, 1998

Act No. 98-394

H. 815 – Rep. Dolbare

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected or appointed public officials in Washington County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed official of Washington County may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Any elected or appointed Washington County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Any elected or appointed official of Washington County holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed official" shall include any person appointed to serve the remaining term of an elected or appointed official, including the sheriff, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Washington County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain public officials and allow them to participate in the Employees’ Retirement System.

Proposed by Act_____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 12, 1998

Passed the Senate April 27, 1998

Act No. 98-395 H. 824 – Reps. Black (L), Hayden and Jackson
AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to authorize Marengo County and any municipality located therein to perform certain actions for the purpose of economic and industrial development and to provide for a retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

For the promotion of local economic and industrial development of Marengo County, Marengo County Commission and each municipality having its corporate limits located wholly in the county, other provisions of law or this constitution notwithstanding, shall have, independently or in cooperation with one or more of such governmental entities, without an election, full and continuing power to do all of the following:

(1) To purchase, construct, lease, or otherwise acquire real property, plants, buildings, factories, works, facilities, machinery, and equipment of any kind.

(2) To lease, sell for cash or on credit, exchange, give and convey any such property described in subdivision (1) above, to any person, firm, association, or corporation.

(3) To promote local industrial, commercial, or agricultural development and the location of new industries or businesses therein.

(4) To lend its credit or to grant public moneys and things of value in aid of, or to any individual, firm, association, or corporation whatsoever.

(5) To become indebted and to issue and sell interest-bearing bonds, warrants (which may be payable from funds to be realized in future years), notes or other obligations or evidences of indebtedness, to a principal amount not exceeding 50 percent of the assessed value of taxable property therein as determined for state taxation, in order to secure funds for the purchase, construction, lease, or acquisition of any of the property described in subdivision (1) or to be used in furtherance of any of the other powers or authorities granted in this amendment. Such obligations or evidences of indebtedness may be issued upon the full faith and credit of the municipality or may be limited as to the source of their payment.

(6) To create a public authority or corporation having such powers, managed and governed by such board or governing body and subject to such limitations as the governing body of the municipality may impose, by approving and filing a certificate to that effect in the office of the Judge of Probate or the Secretary of State, or their respective successors in function, and to delegate to such public authority or corporation and its board or governing body all powers and authority conferred in this amendment upon any such municipality.

The recital in any bonds, warrants, notes, or other obligations or evidences of indebtedness that they were issued pursuant to this amendment or that they were issued to provide funds to be used in furtherance of any power or authority herein authorized **shall be conclusive, and no purchaser or holder thereof need inquire further.** The bond warrants, notes, or other obligations or evidences or indebtedness issued hereunder shall not be considered an indebtedness of the county or any such municipality for the purpose of determining the borrowing capacity of the county or any such municipality under Section 224 or 225 of the Constitution of Alabama of 1901.

In carrying out the purposes of this amendment, neither the county nor any such municipality shall be subject to the provisions of Section 94 of the Constitution of Alabama of 1901. This amendment shall be self-executing, but notwithstanding any contrary provisions of Section 104 of the Constitution of Alabama of 1901, the Legislature shall have the right and power by general, special, or local act to adopt laws supplemental to this amendment or in

furtherance of the purposes and objectives hereinabove set forth. No such special or local act shall be subject to the provisions of Section 106 of the Constitution of Alabama of 1901.

Any actions authorized in this Amendment to be taken by the municipality which have been taken subsequent to January 1, 1998, are hereby ratified, approved, and confirmed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, as amended, and the election laws of this state. In the event that, pursuant to the provisions of Amendment 555 of the Constitution of Alabama of 1901, as amended, the proposed amendment is submitted to a statewide referendum in accordance with the procedures for statewide constitutional amendments under Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, an election upon the proposed amendment is ordered to be held on the date of the next general election not less than three months after the adjournment of the session of the Legislature at which this amendment is proposed in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and notice of the election on the proposed amendment shall be given by proclamation of the Governor, published in a newspaper in each county in the state once a week for four successive weeks next preceding the date herein appointed for the election. In any county in which there is no newspaper published, such notice shall be posted at each county courthouse therein and in three other places in the county.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Marengo County, proposing an amendment to the Constitution of Alabama of 1901, to authorize Marengo County and any municipality located wholly therein to perform certain actions for the purpose of economic and industrial development, effective retroactively to January 1, 1998.

Proposed by Act _____

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 12, 1998

Passed the Senate April 27, 1998 as amended

House concurred in Senate Amendment April 27, 1998

Act No. 98-397

H. 945 – Rep. Dolbare

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to provide that certain elected county officials may not assume a supernumerary office after the effective date of this amendment and to provide that certain elected county officials in Clarke County may participate in the Employees' Retirement System.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected Clarke County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established the particular supernumerary program. Any elected Clarke County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. An elected Clarke County official holding office at the effective date of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the elected county official has served in the current office; provided, however, the elected county official shall forego the assumption of a supernumerary office. For purposes of this amendment, the term "elected Clarke County official" shall mean any person elected to a full-time Clarke County office, and shall include any person appointed to serve the remaining term of an elected county official, but shall not include a judge, district attorney, legislator, constable, board of education member, any official elected from a judicial circuit, or any official who is allowed by law to participate in any other retirement system.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Clarke County, proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected county officials may not assume a supernumerary office after the effective date of this amendment and to provide that certain elected county officials in Clarke County may participate in the Employees’ Retirement System.

Proposed by Act _____

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House April 9, 1998

Passed the Senate April 27, 1998

Act No. 98-398

H. 954 – Rep. Gipson

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary program in Autauga County and provide that certain elected or appointed public officials in Autauga County may participate in the Employees’ Retirement System in lieu of participating in the existing supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) For the purposes of this amendment, the words “elected or appointed Autauga County official” shall mean any person holding an office that entitles the person to participate in a supernumerary program or any person appointed to serve the remaining term of an elected or appointed county official.

(b) An elected or appointed Autauga County official may not assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in that supernumerary program, may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Autauga County official may participate in the Employees’ Retirement System of Alabama upon the

same terms and conditions as may be specified by law for any other employee in the same retirement system. Elected or appointed Autauga County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office and must make the election within one year of the effective date of this amendment.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Autauga County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____."

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House April 9, 1998

Passed the Senate April 27, 1998

Act No. 98-399

H. 908 – Reps. McMillan, Penry and White

AN ACT

Relating to Baldwin County; to propose an amendment to the Constitution of Alabama of 1901, to require approval at a referendum election of certain local laws annexing territory to municipalities under certain conditions.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

In Baldwin County, the Legislature may not enact a local law annexing to a municipality any territory that is separated from the

annexing municipality by a body of water or separated from the annexing municipality by an interstate highway and not contiguous and connected to the municipality by a publicly owned and maintained underpass, overpass, or exchange allowing toll-free two-way access to and from the annexing municipality unless the annexation is subject to approval at a referendum election in the territory to be annexed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Baldwin County, proposing an amendment to the Constitution of Alabama of 1901, to provide that the Legislature may not enact a local law annexing certain territory to a municipality unless the annexation is subject to approval at a referendum election in the territory to be annexed.

Proposed by Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House April 7, 1998

Passed the Senate April 27, 1998 as amended

House concurred in Senate amendment April 27, 1998

Act No. 98-400

H. 781 – Rep. Turnham

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to authorize Lee County and the City of Opelika to perform certain actions for the purpose of economic and industrial development.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

For the promotion of local economic and industrial development, the Lee County Commission and the City Council of the City

of Opelika, any other provision of law or of this Constitution notwithstanding, shall have, independently or in cooperation with one another, full and continuing power to do any of the following:

(1) Use public funds to purchase, lease, or otherwise acquire land, or to utilize land heretofore purchased or otherwise acquired, and improve and develop such land for use as sites for industry of any kind or as industrial park projects, including, but not limited to, grading and the construction of roads, drainage, sewers, sewage and waste disposal systems, parking areas, and utilities to serve such sites or projects.

(2) Lease, sell, grant, exchange, or otherwise convey, on terms approved by the governing body of the county or the City of Opelika, as applicable, all or any part of any site or industrial park project to any individual, firm, corporation, or other business entity, public or private, including any industrial development board or other public corporation or authority heretofore or hereafter created by the county or any municipality therein, for the purpose of constructing, developing, equipping, and operating industrial, commercial, research, or service facilities of any kind.

(3) Lend its credit to or grant public funds and things of value in aid of or to any individual, firm, corporation, or other business entity, public or private, for the purpose of promoting the economic and industrial development of Lee County or the City of Opelika.

In carrying out the purposes of this amendment, neither Lee County nor the City of Opelika shall be subject to Sections 93 or 94 of this Constitution. Each public corporation heretofore created by Lee County or by the City of Opelika, including specifically any industrial development board incorporated under Chapter 54, Article 4, Title 11 of the Code of Alabama 1975, and any industrial development authority incorporated or reincorporated under Chapter 92A, Title 11 of the Code of Alabama 1975, is validated and the powers granted to such board or authority under its respective enabling legislation are validated notwithstanding any other provision of law or of this Constitution. The powers granted in this amendment may be exercised as an alternative to, or cumulative with, and in no way restrictive of, powers otherwise granted by law to the county, or to any municipality, or to any agency, board, or authority created pursuant to the laws of this state.

Neither Lee County nor the City of Opelika shall lend its credit to or grant any public funds or thing of value to or in aid of any private entity under the authority of this amendment unless prior thereto: (i) the action proposed to be taken by Lee County or the City of Opelika is at a public meeting of the governing body of the county or city, as the case may be, by a resolution containing a

determination by such governing body that the expenditure of public funds for such purpose will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities; and (ii) at least seven days prior to the public meeting, a notice is published in the newspaper having the largest circulation in the county or in the city, as the case may be, describing in reasonable detail the action proposed to be taken, a description of the public benefits sought to be achieved by such action, and identifying each individual, firm, corporation, or other business entity to whom or for whose benefit the county or the city proposes to lend its credit or grant public funds or thing of value. For purposes of the foregoing, any sale, lease, or other disposition of property for a price equal to the fair market value thereof shall not constitute the lending of credit or a grant of public funds or thing of value in aid of a private entity.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Lee County, proposing an amendment to the Constitution of Alabama of 1901, to authorize Lee County and the City of Opelika to perform certain actions for the purpose of economic and industrial development.

Proposed by Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 12, 1998

Passed the Senate April 27, 1998

Act No. 98-401

S. 684 – Senator Bedford

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, applicable to Fayette County, to provide for certain additional fees and court costs in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In addition to all other fees and costs provided by law, a special parcel fee not to exceed four dollars (\$4) shall be paid to the Fayette County Revenue Commissioner to cover the costs of collecting ad valorem taxes which will be collected at the same time these taxes are paid. This fee will be deposited in the Fayette County General Fund.

(b) In addition to all other current fees prescribed by law, the judge of probate or other public officials performing similar duties for Fayette County may charge and collect additional fees for issuance, application, or transfer as follows:

- (1) Motor vehicle license tag or validation decal issuance fee.....\$2
- (2) Motor vehicle license transfer fee.....\$2
- (3) Motor vehicle replacement license fee\$2
- (4) Business license issuance fee\$4
- (5) Any license mailing fee\$2
- (6) Professional license issuance fee\$4
- (7) Professional title license issuance fee\$3
- (8) Store license issuance fee\$4
- (9) Boat license issuance fee\$2
- (10) Boat license transfer fee\$2
- (11) Boat license replacement fee\$2

(c) In addition to all other fees or costs levied by any court in Fayette County, there shall be charged an additional court cost of twelve dollars (\$12) for the service of any papers or documents by the sheriff or any deputy sheriff in each criminal or civil case filed in any court in Fayette County and ten dollars (\$10) for each traffic case. The additional costs shall be collected as are other court costs and paid into the Fayette County General Fund.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election

ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Fayette County, proposing an amendment to the Constitution of Alabama of 1901, for certain additional fees and court costs in the county.

Proposed by Act_____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the Senate April 15, 1998

Passed the House April 27, 1998

Act No. 98-402

H. 972 – Rep. Lindsey

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected or appointed public officials in Cleburne County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Cleburne County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Cleburne County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Cleburne County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office. No

person may participate in both a supernumerary program and the Employees' Retirement System based on the same service. For the purposes of this amendment, the words "elected or appointed Cleburne County official" include, subject only to express limitation, any person elected to represent Cleburne County in any representative body of the state and includes any person appointed to serve the remaining term of an elected or appointed Cleburne County official. The words do not include a judge, district attorney, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Cleburne County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain public officials and allow elected or appointed county officials, as defined, to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House April 9, 1998

Passed the Senate April 27, 1998

Act No. 98-403

H. 975 – Rep. Collins

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, applicable to Fayette County, to provide for certain additional fees and court costs in the county.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

(a) In addition to all other fees and costs provided by law, a special parcel fee not to exceed four dollars (\$4) shall be paid to the Fayette County Revenue Commissioner to cover the costs of collecting ad valorem taxes which will be collected at the same time these taxes are paid. This fee will be deposited in the Fayette County General Fund.

(b) In addition to all other current fees prescribed by law, the judge of probate or other public officials performing similar duties for Fayette County may charge and collect additional fees for issuance, application, or transfer as follows:

- (1) Motor vehicle license tag or validation decal issuance fee\$2
- (2) Motor vehicle license transfer fee\$2
- (3) Motor vehicle replacement license fee\$2
- (4) Business license issuance fee\$4
- (5) Any license mailing fee\$2
- (6) Professional license issuance fee.....\$4
- (7) Professional title license issuance fee.....\$3
- (8) Store license issuance fee\$4
- (9) Boat license issuance fee\$2
- (10) Boat license transfer fee\$2
- (11) Boat license replacement fee.....\$2

(c) In addition to all other fees or costs levied by any court in Fayette County, there shall be charged an additional court cost of twelve dollars (\$12) for the service of any papers or documents by the sheriff or any deputy sheriff in each criminal or civil case filed in any court in Fayette County and ten dollars (\$10) for each traffic case. The additional costs shall be collected as are other court costs and paid into the Fayette County General Fund.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Fayette County, proposing an amendment to the Constitution of Alabama of 1901, for certain additional fees and court costs in the county.

Proposed by Act _____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House April 14, 1998

Passed the Senate April 27, 1998

Act No. 98-404

S. 599 – Senator Steele

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to authorize Marengo County and any municipality located therein to perform certain actions for the purpose of economic and industrial development and to provide for a retroactive effect.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

For the promotion of local economic and industrial development of Marengo County, Marengo County and each municipality having its corporate limits located wholly in the county, other provisions of law or this constitution notwithstanding, shall have, independently or in cooperation with one or more of such governmental entities, without an election, full and continuing power to do all of the following:

(1) To purchase, construct, lease, or otherwise acquire real property, plants, buildings, factories, works, facilities, machinery, and equipment of any kind.

(2) To lease, sell for cash or on credit, exchange, give and convey any such property described in subdivision (1) above, to any person, firm, association, or corporation.

(3) To promote local industrial, commercial, or agricultural development and the location of new industries or businesses therein.

(4) To lend its credit or to grant public moneys and things of value in aid of, or to any individual, firm, association, or corporation whatsoever.

(5) To become indebted and to issue and sell interest-bearing bonds, warrants (which may be payable from funds to be realized in future years), notes or other obligations or evidences of indebtedness, to a principal amount not exceeding 50 percent of the assessed value of taxable property therein as determined for state taxation, in order to secure funds for the purchase, construction, lease, or acquisition of any of the property described in subdivision (1) or to be used in furtherance of any of the other powers or authorities granted in this amendment. Such obligations or evidences of indebtedness may be issued upon the full faith and credit of the county or any such municipality or may be limited as to the source of their payment.

(6) To create a public authority or corporation having such powers, managed and governed by such board or governing body and subject to such limitations as the governing body of the county or any such municipality may impose, by approving and filing a certificate to that effect in the office of the Judge of Probate or the Secretary of State, or their respective successors in function, and to delegate to such public authority or corporation and its board or governing body all powers and authority conferred in this amendment upon the county or any such municipality.

The recital in any bonds, warrants, notes, or other obligations or evidences of indebtedness that they were issued pursuant to this amendment or that they were issued to provide funds to be used in furtherance of any power or authority herein authorized shall be conclusive, and no purchaser or holder thereof need inquire further. The bonds, warrants, notes, or other obligations or evidences or indebtedness issued hereunder shall not be considered an indebtedness of the county or any such municipality for the purpose of determining the borrowing capacity of the county or any such municipality under Section 224 or Section 225 of the Constitution of Alabama of 1901.

In carrying out the purposes of this amendment, neither the county nor any such municipality shall be subject to the provisions of Section 94 of the Constitution of Alabama of 1901. This amendment shall be self-executing, but notwithstanding any contrary provisions of Section 104 of the Constitution of Alabama of 1901, the Legislature shall have the right and power by general, special, or local act to adopt laws supplemental to this amendment or in furtherance of the purposes and objectives hereinabove set forth. No such special or local act shall be subject to the provisions of Section 106 of the Constitution of Alabama of 1901.

Any actions authorized in this Amendment to be taken by the county or any such municipality which have been taken subsequent to January 1, 1998, are hereby ratified, approved, and confirmed.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of

Alabama of 1901, as amended, and the election laws of this state. In the event that, pursuant to the provisions of Amendment 555 of the Constitution of Alabama of 1901, as amended, the proposed amendment is submitted to a statewide referendum in accordance with the procedures for statewide constitutional amendments under Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, an election upon the proposed amendment is ordered to be held on the date of the next general election not less than three months after the adjournment of the session of the Legislature at which this amendment is proposed in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and notice of the election on the proposed amendment shall be given by proclamation of the Governor, published in a newspaper in each county in the state once a week for four successive weeks next preceding the date herein appointed for the election. In any county in which there is no newspaper published, such notice shall be posted at each county courthouse therein and in three other places in the county.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Marengo County, proposing an amendment to the Constitution of Alabama of 1901, to authorize Marengo County and any municipality located wholly therein to perform certain actions for the purpose of economic and industrial development, effective retroactively to January 1, 1998.

Proposed by Act _____

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the Senate as amended April 14, 1998

Passed the House April 27, 1998

Act No. 98-405

S. 631 – Senator Biddle

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, to authorize any city with a population of 150,000 or more, with the approval of the electors of the city, to establish trust funds for the long term benefit of the city and its citizens.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

Part I. As used in this amendment, the following terms shall have the following meanings:

(a) **AUTHORIZED CITY.** Any city in which the voters have authorized the establishment of one or more trust funds in the manner provided in this amendment, notwithstanding Section 94 of this Constitution.

(b) **AUTHORIZED INVESTMENT.** Any investment authorized by law for the investment of any of the trust funds of either the Teachers' Retirement System of Alabama or the Employees' Retirement System of Alabama.

(c) **AUTHORIZING ORDINANCE.** An ordinance of an authorized city adopted in accordance with this amendment.

(d) **CITY.** Any city with a population of 150,000 or more according to the latest federal decennial census.

(e) **GOVERNING BODY.** The city council, city commission, or other legislative body authorized under general law to adopt ordinances for the operation and governance of a city.

(f) **INVESTMENT POLICY.** A written statement setting forth the mode and manner for investing the assets of a trust fund in authorized investments, establishing benchmarks and criteria for measuring investment performance and compliance with the investment policy, and specifying a requirement for the preparation and publication of periodic reports on investment performance and investment policy compliance.

(g) **TRUST FUND.** A fund established pursuant to this amendment.

Part II. The governing body of any authorized city may establish by ordinance one or more trust funds for the continuing benefit of the authorized city and its citizens which shall be funded and administered in accordance with the ordinance and this amendment.

Part III. The authorizing ordinance shall include the following provisions:

(a) The amount and source of funds to be initially set aside in the trust fund.

(b) The conditions of expenditure of the principal of or earnings on the assets of the trust fund, or any other conditions, which conditions may include a request by the mayor, approval by any specified number of members of the governing body of the authorized city greater than a simple majority of the members, or any other conditions.

(c) An investment policy for the trust fund.

(d) Provision for the custody of the assets of the trust fund by the finance director of the authorized city, or a bank, savings association or trust company with a place of business in Alabama, which is organized and existing under the laws of this state, any other state of the United States, or the United States and which is authorized pursuant to the laws of this state or the United States, to conduct, and is conducting in this state, the business of a trust company, or with respect to a bank or savings association, the business of making loans and taking deposits, selected in a manner specified in the authorizing ordinance.

(e) Any other provisions, not inconsistent with this amendment, as may be deemed appropriate by the governing body.

Part IV. An authorizing ordinance once adopted may be subsequently amended only as proposed in an ordinance adopted by the governing body, approved by the mayor, and approved by a majority of the qualified electors of an authorized city voting at an election called for such purpose. Approval by a majority of the qualified electors shall not be required for an amendment to an authorizing ordinance for the sole purpose of providing for the deposit of additional funds or authorized investments into a previously established trust fund. An authorized city may call and pay the expenses of elections for the purpose of considering amendments to an authorizing ordinance.

Part V. In the event this amendment is approved and a majority of the qualified electors of a city who vote thereon vote in favor of the adoption of this amendment when it is submitted to them for approval, the governing body may establish one or more trust funds as provided in this amendment. In the event this amendment is approved and a majority of the qualified electors of a city who vote thereon vote against the adoption of this amendment when it is submitted to them for approval, the authority to establish one or more trust funds as provided herein shall not be given unless the question of authority to establish trust funds is again submitted to a vote of the qualified electors of a city and voted in the affirmative by a majority of those voting at the election. Each such election shall be ordered, held, canvassed, and may be contested in the same manner as is provided by law applicable to the city for elections to authorize the issuance of municipal bonds. In

the event the authority to establish trust funds is defeated, subsequent elections for the approval of the authority may be held again, but no election shall be held within one year of any previous election. Once authority to establish trust funds has been approved, no further election shall be required thereon.

Part VI. The authority and powers conferred by this amendment are intended to be in addition to, and not in derogation of, authority and powers otherwise provided by law.

Part VII. This amendment is intended to supersede any conflicting constitutional provisions or statutes. Notwithstanding the foregoing, the Legislature may enact laws supplemental to this amendment and in furtherance of the purposes and objectives thereof, provided that those laws are not inconsistent with the express provisions of this amendment.

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitutional Amendment of 1901, as amended, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Proposing an amendment to the Constitution of Alabama of 1901, to authorize any city with a population of 150,000 or more, with the approval of the electors of the city, to establish trust funds for the long term benefit of the city and its citizens.

Proposed by Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the Senate April 9, 1998

Passed the House April 27, 1998

Act No. 98-406

S. 677 – Senator Dial

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected or appointed public officials in Cherokee County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Cherokee County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Cherokee County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Cherokee County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office. No person may participate in both a supernumerary program and the Employees' Retirement System based on the same service. For the purposes of this amendment, the words "elected or appointed Cherokee County official" include, subject only to express limitation, any person elected to represent Cherokee County in any representative body of the state and includes any person appointed to serve the remaining term of an elected or appointed Cherokee County official. The words do not include a judge, district attorney, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Cherokee County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain public officials and allow elected or appointed county officials, as defined, to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the Senate April 15, 1998

Passed the House April 27, 1998

Act No. 98-407

S. 685 – Senator Bedford

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Franklin County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Franklin County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Franklin County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Franklin County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Franklin County, proposing an amendment to the Constitution of Alabama of 1901, to phaseout the supernumerary system for certain elected public officials and allow them to participate in the Employees’ Retirement System.

Proposed by Act _____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the Senate April 15, 1998

Passed the House April 27, 1998

Act No. 98-408

H. 871 – Rep. Knight (A)

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Bibb County may participate in the Employees’ Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

No person elected or appointed Sheriff of Bibb County, or any elected or appointed Bibb County official, may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of

a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every sheriff and other elected or appointed Bibb County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Bibb County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, school board member, or any official elected from a judicial circuit. All costs associated with the purchase of prior service credit as prescribed in Section 36-27-6.1, Code of Alabama 1975, shall be the responsibility of the official making the purchase.

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Bibb County, proposing an amendment to the Constitution of Alabama of 1901, to phase out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____."

This description shall be followed by the following language: "Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House March 24, 1998

Passed the Senate April 27, 1998

Amari, Adams, Dixon, Davidson, Lipscomb, Hale, Bedford, Waggoner, and Barron

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, establishing the Alabama Religious Freedom Amendment; prohibiting the burdening of the freedom of religion unless the government demonstrates that it has a compelling interest in doing so and that the interest is achieved by the least restrictive means; and providing a claim or defense and relief against government violation.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

SECTION I. The amendment shall be known as and may be cited as the Alabama Religious Freedom Amendment.

SECTION II. The Legislature makes the following findings concerning religious freedom:

(1) The framers of the United States Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution, and the framers of the Constitution of Alabama of 1901, also recognizing this right, secured the protection of religious freedom in Article I, Section 3.

(2) Federal and state laws "neutral" toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise.

(3) Governments ~~should not burden religious exercise without compelling justification.~~

(4) In *Employment Division v. Smith*, 494 U.S. 872 (1990), the United States Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion.

(5) The compelling interest test as set forth in prior court rulings is a workable test for striking sensible balances between religious liberty and competing governmental interests in areas ranging from public education (pedagogical interests and religious rights, including recognizing regulations necessary to alleviate interference with the educational process versus rights of religious freedom) to national defense (conscription and conscientious objection, including the need to raise an army versus rights to object to individual par-

the need to raise an army versus rights to object to individual participation), and other areas of important mutual concern.

(6) Congress passed the Religious Freedom Restoration Act, 42 U.S.C., § 2000bb, to establish the compelling interest test set forth in prior federal court rulings, but in *City of Boerne v. Flores*, 117 S.Ct. 2157 (1997), the United States Supreme Court held the act unconstitutional stating that the right to regulate was retained by the states.

SECTION III. The purpose of the Alabama Religious Freedom Amendment is to guarantee that the freedom of religion is not burdened by state and local law; and to provide a claim or defense to persons whose religious freedom is burdened by government.

SECTION IV. As used in this amendment, the following words shall have the following meanings:

(1) **DEMONSTRATES.** Meets the burdens of going forward with the evidence and of persuasion.

(2) **FREEDOM OF RELIGION.** The free exercise of religion under Article I, Section 3, of the Constitution of Alabama of 1901.

(3) **GOVERNMENT.** Any branch, department, agency, instrumentality, and official (or other person acting under the color of law) of the State of Alabama, any political subdivision of a state, municipality, or other local government.

(4) **RULE.** Any government statute, regulation, ordinance, administrative provision, ruling guideline, requirement, or any statement of law whatever.

SECTION V. (a) Government shall not burden a person's freedom of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Government may burden a person's freedom of religion only if it demonstrates that application of the burden to the person:

(1) Is in furtherance of a compelling governmental interest; and

(2) Is the least restrictive means of furthering that compelling governmental interest.

(c) A person whose religious freedom has been burdened in violation of this section may assert that violation as a claim or defense in a judicial, administrative, or other proceeding and obtain appropriate relief against a government.

SECTION VI. (a) This amendment applies to all government rules and implementations thereof, whether statutory or otherwise, and whether adopted before or after the effective date of this amendment.

(b) Nothing in this amendment shall be construed to authorize any government to burden any religious belief.

(c) Nothing in this amendment shall be construed to affect, interpret, or in any way address those portions of the First Amendment of the United States Constitution permitting the free exercise of religion or prohibiting laws respecting the establishment of religion, or those provisions of Article I, Section 3, of the Constitution of Alabama of 1901, regarding the establishment of religion.

SECTION VII. (a) This amendment shall be liberally construed to effectuate its remedial and deterrent purposes.

(b) If any provision of this amendment or its application to any particular person or circumstance is held invalid, that provision or its application is severable and does not affect the validity of other provisions or applications of this amendment.

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment: "Proposing an amendment to the Constitution of Alabama of 1901, to prohibit the burdening of the free exercise of religion unless government demonstrates that it has a compelling interest in doing so and that the interest is achieved by the least restrictive means.

Proposed by Act _____."

This description shall be followed by the following language: "Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the Senate as amended April 9, 1998

Passed the House April 27, 1998

Act No. 98-410

H. 603 – Rep. Seibenhener

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to provide that certain elected public officials in Geneva County may participate in the Employees' Retirement System in lieu of participating in a supernumerary program or system.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

No elected or appointed Geneva County official may assume a supernumerary office after the effective date of this amendment. Any person who, on the effective date of this amendment, is entitled to participate in a supernumerary program may continue to participate in that supernumerary program, which shall include the assumption of a supernumerary office according to the terms and conditions of the law which established that supernumerary program. Every elected or appointed Geneva County official may participate in the Employees' Retirement System of Alabama upon the same terms and conditions as may be specified by law for any other employee in the same retirement system. Geneva County officials holding office at the time of the ratification of this amendment shall be eligible to purchase service credit in the Employees' Retirement System for the time the official has served in the current office; provided, however, the official shall forego the assumption of a supernumerary office. For the purposes of this amendment, the words "elected or appointed county official" shall include any person appointed to serve the remaining term of an elected or appointed county official, but shall not include a judge, district attorney, legislator, constable, school board member, or any official elected from a judicial circuit.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Geneva County, proposing an amendment to the Constitution of Alabama of 1901, to phase-out the supernumerary system for certain elected public officials and allow them to participate in the Employees' Retirement System.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House February 19, 1998

Passed the Senate April 27, 1998

Act No. 98-411

H. 849 – Rep. Knight (A)

AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to assess an additional fee on civil and criminal cases, with certain exceptions, in Bibb County and for service of process with the proceeds to be used for planning, designing, constructing, financing, equipping, and operating a new county jail

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, is proposed and shall become valid as a part of the Constitution when all requirements of this act are fulfilled:

PROPOSED AMENDMENT

In addition to any court costs and fees now or hereafter authorized in Bibb County, the Bibb County Commission may impose by resolution of the commission an additional fee in an amount not to exceed thirty five dollars (\$35) to be assessed and taxed as costs on each civil case and on each criminal case, including traffic cases, but excluding small claims cases, filed in the circuit court, district court, or any municipal court in Bibb County, as well as an additional fee not to exceed five dollars (\$5) for the service of a pleading or other document in connection with any action or case. These fees shall not be waived by any court unless all other fees, assessments, costs, fines, and charges associated with the case are waived.

The additional fees when collected by the clerks or their collection officers of the courts shall be paid into the General Fund of Bibb County to be used by the Bibb County Commission for the planning, designing, construction, financing, furnishing, equipping, and operation of a new county jail. The Bibb County Commission may set and adjust by resolution the fees within the limits authorized by this amendment based on the needs associated with the county new jail.

Section 2. An election upon the proposed amendment shall be held in accordance with Amendment 555 to the Constitution of Alabama of 1901, and the election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Relating to Bibb County, proposing an amendment to the Constitution of Alabama of 1901, to assess an additional fee on

civil and criminal cases, with certain exceptions, in Bibb County and for service of process with the proceeds to be used for planning, designing, constructing, financing, equipping, and operating a new county jail.”

Proposed by Act_____”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House April 7, 1998

Passed the Senate April 27, 1998

Act No. 98-412

H. 195 – Reps. Graham, Clark (J), Fuller, Venable, Hamilton, Smith, Carter, Flowers, Turnham, Clouse, Hooper, Hammett, Hill, Rogers (M), Gipson, Curry, Morton, Thomas (D), Pringle, Hall (A), Drake, Millican, Wren, Johnson (R), Carothers, Laird, Dolbare, Vance, Jackson, Hayden, Sims, Dukes, Burke, Willis, Crigler, Knight (A), Payne, Allen and Baker

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, authorizing the issuance of general obligation bonds of the State of Alabama in an aggregate principal amount not exceeding five million seven hundred thousand dollars (\$5,700,000) for the purpose of providing, equipping, and improving permanent facilities in the state for providing and equipping a center for cotton, cotton products technology, and for its use as an educational, applied research, and promotional facility in the field of textile and apparel technology.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

“The State of Alabama is authorized to become indebted for the purpose of providing, equipping, and improving facilities for the purpose of providing and equipping a center for cotton, cotton products

technology, and for its use as an educational, applied research, and promotional facility in the field of textile and apparel technology, and in evidence of the indebtedness so incurred to sell and issue bonds, in addition to all other bonds of the state, not exceeding five million seven hundred thousand dollars (\$5,700,000) in aggregate principal amount. Said bonds shall be direct general obligations of the state and the full faith and credit and taxing power of the state are hereby pledged to the prompt and faithful payment of the principal thereof and the interest thereon. The proceeds from the sale of said bonds are hereby appropriated and shall be used exclusively for the purpose of paying the expenses incurred in the sale and issuance thereof and for payment of the costs of the construction, alteration, improvement, remodeling, renovation, modernization, enlargement, and equipment of buildings and related facilities, including parking areas and ramps, roadways, sewers, curbs, and gutters, but not for the purchase of sites for providing and equipping a center for cotton, cotton products technology, and for its use as an educational, applied research, and promotional facility in the field of textile and apparel technology. Said bonds shall be issued by the state pursuant to appropriate resolutions adopted by the Board of Directors of the Alabama Agricultural Development Authority, and the proceeds thereof shall be allocated by said authority for payment of the aforesaid costs in such amounts and manner as shall be authorized by an act of the Legislature. Such buildings and facilities and improvements thereto shall be constructed at the direction of said authority and shall thereafter be operated by an agency to be determined by the Alabama Commissioner of Agriculture and Industries in consultation and cooperation with textile and apparel-related businesses and trade associations to include, but not be limited to, the Alabama Textile Manufacturers Association, Inc., under such arrangements as may be authorized by law.

"The State of Alabama is further authorized to become indebted and in evidence thereof to sell and issue one or more series of bonds to refund all or any of the bonds hereinabove authorized by this amendment in such principal amount or amounts (which may exceed the principal amount of the bonds being refunded) and in such manner as may be provided by law duly enacted by the Legislature.

"The aforesaid authority is hereby vested with the power and authority to provide for the sale and terms of the bonds hereby authorized and the issuance thereof, subject to the approval of the Governor. The bonds may be sold, executed, and delivered at any time and from time to time, may be in such forms, denominations, series, and numbers, may be of such tenor and maturities, may bear such date or dates, may be payable in such installments and at such place or places, may bear interest at such rate or rates payable and evidenced in such manner, and may contain provisions

for redemption at the option of the state to be exercised by said authority at such date or dates prior to their maturity and upon payment of such redemption price or prices, all as shall be provided by the said authority in the resolution or resolutions whereunder the bonds hereby authorized are issued. The principal of each series of bonds shall mature on such date in such amounts as shall be specified in the resolution or resolutions of the board of directors of the said authority under which they are issued, the last of which installments shall mature not later than twenty-one years after the date of the bonds of the same series. All of the bonds (including refunding bonds) shall be sold only at public sale or sales, either on sealed bids or at public auction, after such advertisement as may be prescribed by the said authority, to the bidder whose bid reflects the lowest true interest cost to the state computed to the respective maturities of the bonds sold; provided, that if no bid deemed acceptable by the said authority is received, all bids may be rejected.

"The bonds shall be signed in the name of the state by the Governor and countersigned by the chairman of the said authority and the Great Seal of the State of Alabama or a facsimile thereof shall be impressed, printed or otherwise reproduced thereon and shall be attested by the signature of the Secretary of State; provided that facsimile signatures of any or all of said officers may be reproduced on such bonds in lieu of their manually signing the same.

"All bonds issued under the provisions of this amendment, together with the interest income thereon, shall forever be exempt from all taxation in the state, except inheritance, estate and gift taxes.

"The proceeds from the sale of those bonds hereby authorized (other than refunding bonds), after the payment of all expenses of the sale thereof, shall be set apart in a special fund in the State Treasury to be designated "The Alabama Textile Technology Facilities Improvement Fund," and such proceeds shall be temporarily invested until needed and disbursed, together with income derived from the investment and reinvestment thereof, on order of the aforesaid authority solely for the purposes, hereinabove described, for which said bonds are authorized to be issued. Proceeds and said income so disbursed may be combined with moneys derived from other sources or otherwise provided by state institutions in accomplishing said purposes in such manner as said authority shall direct, but the provision or existence of matching funds from the federal government or other entities or persons shall not be a prerequisite to the issuance of any bonds hereunder or to the disbursements of any proceeds thereof or any income earned on such proceeds.

"No further authorization from the Legislature shall be a prerequisite to the validity of any bonds issued hereunder. However,

the Legislature shall enact appropriate legislation implementing the provisions hereof, including provisions for the issuance of refunding bonds as hereinabove authorized."

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Proposing an amendment to the Constitution of Alabama of 1901, authorizing the issuance, sale, and refunding of general obligation bonds of the State of Alabama of up to five million seven hundred thousand dollars (\$5,700,000) for the purposes of providing, equipping, and improving facilities for the purpose of providing and the equipping of a center for cotton and cotton products technology, and for its use as an educational applied research, and promotional facility in the field of textile and apparel technology.

Proposed by Act _____"

This description shall be followed by the following language:

"Yes () No ()."

CONSTITUTIONAL AMENDMENT

Passed the House February 26, 1998

Passed the Senate April 27, 1998

Act No. 98-413

H. 437 – Reps. McDaniel, Clark (J), McMillan, Townsend, Sanderford, Clouse, Dukes, Haney, Minnifield, Smith, Jorgensen, Robinson, Hamilton, White, Johnson (R), Layson, Crigler, Hammett, Gipson, Ford and Collins

AN ACT

To propose an amendment to the Constitution of Alabama of 1901, authorizing the issuance of general obligation bonds of the State of Alabama in an aggregate principal amount not exceeding one hundred ten million dollars (\$110,000,000) for the acquisition, provision, construction, improvement, renovation, equipping and maintenance of the state parks system and public historical sites and public historical parks.

Be It Enacted by the Legislature of Alabama:

Section 1. The following amendment to the Constitution of Alabama of 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the qualified electors voting thereon and in accordance with Sections 284, 285, and 287 of the Constitution of Alabama of 1901, as amended:

PROPOSED AMENDMENT

The State of Alabama is authorized to become indebted for the purpose of the acquisition, provision, construction, improvement, renovation, equipping, and maintenance of the state parks system, public historical sites, and public historical parks, and in evidence of the indebtedness so incurred to sell and issue bonds, in addition to all other bonds of the state, not exceeding one hundred ten million dollars (\$110,000,000) in aggregate principal amount. The bonds shall be direct general obligations of the state and the full faith and credit and taxing power of the state are hereby pledged to the prompt and faithful payment of the principal thereof and the interest thereon. One hundred four million dollars (\$104,000,000) of the bonds shall be issued for the state by the Alabama State Parks System Improvement Corporation pursuant to the appropriate resolutions adopted by the board of directors of the corporation and the proceeds thereof shall be appropriated and used exclusively for the purpose of paying the expenses incurred in the sale and issuance of the bonds and for payment of the costs of the acquisition, provision, construction, improvement, renovation, equipping, and maintenance of the state parks system; provided, any lake acquired and/or built with the proceeds thereof by the Department of Conservation and Natural Resources as a part of a state park must have a minimum buffer of six hundred (600) lateral feet between the shoreline and any private property. In the event that the water from any said lake is sold, the cost thereof shall be equal to the periodic costs for that portion of the bond issue incurred by the Alabama State Parks System Improvement Corporation for said lake, and shall be repaid to the Department of Conservation and Natural Resources at the same time as the debt service on said bond issue. Such acquisition, provision, construction, improvement, renovation, equipping and maintenance of the state parks system, shall be completed at the direction of the Alabama State Parks System Improvement Corporation with the advice and concurrence of the Joint Legislative Committee on State Parks, and all state park system land and facilities, except for existing concession operations or other existing permitted operations, shall thereafter be exclusively and solely operated and maintained by the Department of Conservation and Natural Resources. Six million dollars (\$6,000,000) of the bonds shall be issued for the state by the Alabama Public Historical Sites and Parks Improvement Corporation pursuant to the appropriate

resolutions adopted by the board of directors of the corporation and the proceeds thereof shall be appropriated and used exclusively for the purpose of paying the expenses incurred in the sale and issuance of the bonds and for the payment of the costs of the acquisition, provision, construction, improvement, renovations, equipping, and maintenance of public historical sites and public historical parks not under the jurisdiction of the Department of Conservation and Natural Resources. Such acquisition, provision, construction, improvement, renovation, equipping, and maintenance of public historical sites and public historical parks shall be completed at the direction of the Alabama Public Historical Sites and Parks Improvement Corporation and shall thereafter be operated by the Alabama Historical Commission, or other entity as authorized by the commission, with the advice and concurrence of the Joint Legislative Committee on State Parks.

The State of Alabama is further authorized to become indebted and in evidence thereof to sell and issue one or more series of bonds to refund all or any of the bonds hereinabove authorized by this amendment in such principal amount or amounts, which may exceed the principal amount of the bonds being refunded, and in such manner as may be provided by law duly enacted by the Legislature.

The aforesaid corporations are hereby vested with the power and authority to provide for the sale and terms of the bonds hereby authorized and the issuance thereof, subject to the approval of the Governor. The bonds may be sold, executed, and delivered at any time and from time to time, may be in such forms, denominations, series, and numbers, may be of such tenor and maturities, may bear such date or dates, may be payable in such installments and at such place or places, may bear interest at such rate or rates payable and evidenced in such manner, and may contain provisions for redemption at the option of the state to be exercised by the corporations at such date or dates prior to their maturity and upon payment of such redemption price or prices, all as shall be provided by the corporations in the resolution or resolutions whereunder the bonds hereby authorized are issued. The principal of each series of bonds shall mature on such date and in such amounts as shall be specified in the resolution or resolutions of the board of directors of the corporations under which they are issued, the last of which installments shall mature not later than 20 years after the date of the bonds of the same series. All of the bonds, including refunding bonds, shall be sold only at public sale or sales, either on sealed bids or at public auction, after such advertisement as may be prescribed by the corporations, to the bidder whose bid reflects the lowest true interest cost to the state computed to the respective maturities of the bonds sold; provided, that if no bid deemed acceptable by the corporation is received, all bids may be rejected.

The bonds shall be signed in the name of the state by the Governor of the State of Alabama and the Great Seal of the State of Alabama or a facsimile thereof shall be impressed, printed or otherwise reproduced thereon and shall be attested by the signature of the Secretary of State of the State of Alabama; provided that facsimile signatures of either or both of the officers may be reproduced on such bonds in lieu of their manually signing the same.

All bonds issued under the provisions of this amendment, together with the interest income thereon, shall forever be exempt from all taxation in the state, except inheritance, estate and gift taxes.

The proceeds from the sale of the bonds by the Alabama State Parks System Improvement Corporation hereby authorized, other than refunding bonds, after the payment of all expenses of the sale thereof, shall be set apart in a special fund in the State Treasury to be designated "The Alabama State Parks System Improvement Fund," and such proceeds, together with income derived from the investment and reinvestment thereof, shall be temporarily invested until needed and disbursed, on order of the aforesaid corporation solely for the purposes, hereinabove described, for which the bonds are authorized to be issued.

The proceeds from the sale of the bonds by the Alabama Public Historical Sites and Parks Improvement Corporation hereby authorized, other than refunding bonds, after the payment of all expenses of the sale thereof, shall be set apart in a special fund in the State Treasury to be designated "The Alabama Public Historical Sites and Parks Improvement Fund," and such proceeds, together with income derived from the investment and reinvestment thereof, shall be temporarily invested until needed and disbursed, on order of the aforesaid corporation solely for the purposes, hereinabove described, for which the bonds are authorized to be issued.

No further authorization from the Legislature shall be a prerequisite to the validity of any bonds issued hereunder. However, the Legislature shall enact appropriate legislation implementing the provisions hereof, including provisions for the issuance of refunding bonds as hereinabove authorized.

The Alabama State Parks System Improvement Corporation and the Alabama Public Historical Sites and Parks Improvement Corporation authorized in this constitutional amendment are strongly encouraged to utilize businesses and companies in all aspects of the bond and construction portions of this amendment that reflect the racial and ethnic diversity of the state.

Section 2. An election upon the proposed amendment shall be held in accordance with Sections 284 and 285 of the Constitution

of Alabama of 1901, as amended, and the general election laws of this state.

Section 3. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

“Proposing an amendment to the Constitution of Alabama of 1901, authorizing the issuance and sale of general obligation bonds of the State of Alabama of up to one hundred ten million dollars (\$110,000,000) for the purposes of the acquisition, provision, construction, improvement, renovation, equipping, and maintenance of the state parks system, public historical sites and public historical parks.

Proposed By Act_____.”

This description shall be followed by the following language:

“Yes () No ().”

CONSTITUTIONAL AMENDMENT

Passed the House March 5, 1998 as amended

Passed the Senate April 27, 1998

Act No. 98-414

S. 601 – Senator Little

AN ACT

Relating to Tallapoosa County; to authorize the county commission to maintain a contingency fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The Tallapoosa County Commission may maintain a contingency fund in the county treasury. The contingency fund may be funded in any fiscal year in an amount not to exceed ten thousand dollars (\$10,000) and may be funded from the county general fund or any other funds in the county treasury not otherwise restricted. Funds in the contingency fund may be appropriated and spent for any lawful public purpose at the discretion of the county commission for purposes not covered by the general budget of the county.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on April 28, 1998 without approval by the Governor.

Act No. 98-415

S. 584 – Senator Windom

AN ACT

To alter, rearrange, and extend the boundary lines and corporate limits of the municipality of Prichard in Mobile County.

Be It Enacted by the Legislature of Alabama:

Section 1. The boundary lines and corporate limits of the municipality of Prichard in Mobile County are altered, rearranged, and extended to include within the corporate limits of the municipality, in addition to the lands now included, all of the following territory:

COM AT SE COR LOT 13 OWEN DIVISION OF ST LOUIS TRT RUN SWLY ALG N/L BERKLEY AVE 988 FT TO A PT AT INTERSECT OF N/S OF BERKLEY AVE & E/S OF JESSIE ST THEN RUN NLY 1,038 FT ALG E/L INDUSTRIAL ST W TO A PT AT INTERSECT OF S/E OF INDUSTRIAL ST W & I-65 SRVCE RD S THEN RUN 569 FT E TO THE N INTERSECT OF LOTS 11 & 15 THEN RUN S 702 FT TO A PT THEN E 202 FT TO THE INTERSECT OF THE LIMIT BOUNDARIES OF MOBILE AND PRICHARD.

Section 2. In accordance with Section 11-42-6(b) of the Code of Alabama 1975, a map showing what territory is proposed to be annexed to the municipality of Prichard is on file in the office of the Judge of Probate in Mobile County, Alabama, and the map is open to the inspection of the public.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

This Act became a law under Section 125 of the Constitution on April 28, 1998 without approval by the Governor.

Act No. 98-416

S. 81 – Senator Barron

AN ACT

Relating to DeKalb County; levying an additional fee for court costs in the Town of Fyffe for law enforcement purposes.

Be It Enacted by the Legislature of Alabama:

Section 1. In DeKalb County, there is levied in the Town of Fyffe an additional fee of ten dollars (\$10) for court costs. Funds

from the fee shall be deposited in the Law Enforcement Fund to be used by the chief of police for law enforcement purposes. The chief of police shall prepare an annual report of the expenditures made from the fund during the fiscal year and annually submit the report to the city council.

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

This Act became a law under Section 125 of the Constitution on April 28, 1998 without approval by the Governor.

Act No. 98-417

H.J.R. 278 – Reps. Dean, Gaston, Mitchell, Clark (W), Crigler, Turner, Hooper, Kennedy, Pringle, Buskey, Penry, McMillan and Box

HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF SOUTH ALABAMA MEN'S BASKETBALL TEAM ON WINNING THE SUNBELT CONFERENCE CHAMPIONSHIP.

WHEREAS, the University of South Alabama Men's Basketball Team has won their second straight Sunbelt Conference Championship, thus bringing immense happiness and pride to the local community and state and, in recognition thereof, the team members, the coaching team, and all of those individuals associated with the team are deserving of special public commendation; and

WHEREAS, masterfully directed by Coach Bob Weltlich, who has done an exceptional job during his first year as head basketball coach at the University of South Alabama, the Jaguars of South Alabama are the only team from Alabama to make the NCAA Tournament this year and the only team from Alabama to make the tournament last year; and

WHEREAS, the Jaguars are ranked second in the nation in scoring defense and tenth in rebound margin and traveled to Sacramento, California, to face the University of Illinois in the first round of the NCAA Tournament on March 12, 1998; and

WHEREAS, these fine young athletes bring great honor to themselves, their school, and to Mobile County, and are indeed

deserving of highest praise for their outstanding efforts and contributions; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievement, we hereby most highly commend the University of South Alabama Men's Basketball Team on their Sunbelt Conference Championship and extend to them sincere best wishes for continued success during the NCAA Tournament.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to Dr. Frederick P. Whiddon, President of the University of South Alabama, and to Coach Weltlich, for appropriate school display.

Approved April 29, 1998

Time: 11:30 A.M.

Act No. 98-418

H.J.R. 411 – Rep. Collins

HOUSE JOINT RESOLUTION

COMMENDING THE BEVILL STATE COMMUNITY COLLEGE MEN'S BASKETBALL TEAM AND COACH RICK BOLLING FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, the Bevill State Community College Men's Basketball Team has recently completed the most successful season of an Alabama Community College men's basketball team competing at the National Division II level; and

WHEREAS, the Basketball Team diligently practiced on weekends, before morning classes, and at any and every available time to develop skills necessary for competition at the intercollegiate level; and

WHEREAS, members of this outstanding team are Dan Allums, Kevin Bailey, Saige Beaty, Shaun Caffee, Brian Fisher, Brent Higgs, Arthimus Howard, Keith Jones, Tony Jones, Derrick Mason, Eric Pitts, Akbar Stepford, Derrick Thomas, Marcus Tyree, Shane Varnadoe, and Sidney Wilson; and

WHEREAS, further, Coach Rick Bolling has dedicated his time, effort, and talent well beyond the requirements of his part-time contract; and

WHEREAS, the team and coach admirably represented the State of Alabama in the 1998 National Junior College Athletic Association Division II Championships, becoming the first

Alabama team to reach the Final Four of the championships, having finished 3rd in national competition; now therefore.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize, honor, and commend the Bevill State Community College Men's Basketball Team and Coach Rick Bolling for their outstanding accomplishment of finishing third in the nation in the 1998 NJCAA Division II Basketball Championships, and for the resolute dedication that has placed them at the pinnacle of athletic achievement.

BE IT FURTHER RESOLVED, That special recognition be given to Coach Rick Bolling for obtaining his 100th career college victory in just his sixth season at Bevill State and on being named the NJCAA District XXII Coach of the Year; to Marcus Tyree for being selected to the AJCAA State All-Tournament Team; and to Tony Jones for being selected AJCAA State Tournament Most Valuable Player, and to the NJCAA National All-Tournament Team.

Approved April 29, 1998

Time: 11:31 A.M.

Act No. 98-419

H.J.R. 412 – Reps. Kennedy and Buskey

HOUSE JOINT RESOLUTION

COMMENDING WRIGHT'S TOURS AND CHARTER SERVICE FOR OUTSTANDING SERVICE.

WHEREAS, Mr. Levi Wright, Sr., founded the highly successful Wright's Tours and Charter Service in Mobile, Alabama, on March 18, 1987, the first minority owned bus and tour service in Mobile, Alabama; and

WHEREAS, through Mr. Wright's continuous perseverance for quality travel to the people of Mobile County, Wright's Tours and Charter Service made its first chartered trip to Macon, Georgia, and with the Greater Mt. Olive Baptist Church No. 2 on April 11, 1987;

WHEREAS, contributing greatly to the progress and growth of the community, Wright's Tours and Charter Service moved to its present location on August 28, 1992, adding an additional bus on January 17, 1994, and currently owns four busses and a van, employs six certified bus drivers and two van drivers, three sales representatives, two trip coordinators, a tour guide, and a secretary; and

WHEREAS, Wright's Tours and Charter Service, which was incorporated on January 1, 1996, celebrated its 10th Anniversary during March 1997 and has indeed contributed significantly to the residents of Mobile through its extraordinary community service; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Wright's Tours and Charter Service is commended on its outstanding achievements, and it is further directed that a copy of this resolution is presented to Mr. Levi Wright, Sr., for appropriate display with our sincere best wishes for continued success.

Approved April 29, 1998

Time: 11:33 A.M.

Act No. 98-420

H.J.R. 422 – Reps. Dean and Gaston

HOUSE JOINT RESOLUTION

COMMENDING BROOKE JANASKY ON HER OUTSTANDING ACHIEVEMENTS AS MISS SPRINGDALE OF 1998.

WHEREAS, it is with highest commendation that the Alabama Legislature notes the outstanding achievements of Brooke Janasky as Miss Springdale for 1998; and

WHEREAS, Ms. Janasky, who is a lady of exceptional talent and ability, is a student at Auburn University and was instrumental in developing "Wait for Success," which teaches teens that sexual abstinence is a positive choice in preventing teenage pregnancy, AIDS, and other sexually transmitted diseases, as well as teaches self-respect, self-discipline, and self-worth; and

WHEREAS, with her keen intelligence and unshakable integrity, she reached more than 5,000 students with her program on sexual abstinence, created a highly successful Web Page, and raised a phenomenal \$11,258.70 to benefit the Salvation Army and Angel Tree Program; and

WHEREAS, with her keen intelligence and unshakable integrity, Brooke has made significant contributions to the Mobile Community as an outstanding guest speaker for elementary and high schools, Penelope House, Pilot Club of West Mobile, Tillman's Corner Senior Citizens Club, Bienville Club, American Business Womens Association, American Cancer Society of Mobile, and numerous local churches; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Brooke Janasky, whom we hold in highest personal regard, has indeed exemplified the ideals of achievement, thereby serving as a worthy role model for others, and we further direct that she receive a copy of this resolution of highest esteem with our best wishes for continued success.

Approved April 29, 1998

Time: 11:33 A.M.

Act No. 98-421

H.J.R. 281 – Rep. Millican

HOUSE JOINT RESOLUTION

COMMENDING DENNIS L. IRELAND FOR HIS OUTSTANDING LEADERSHIP WITH ALCAP.

WHEREAS, it is with a sense of great pride and deep admiration that the Alabama Legislature notes the numerous contributions of Mr. Dennis L. (Dan) Ireland to the Alabama Citizens Action Program (ALCAP); and

WHEREAS, after receiving a B.A. Degree from Samford University, Master of Divinity Degree from New Orleans Baptist Seminary of New Orleans, and a Doctor of Divinity Degree from Samford University, Dr. Ireland held pastorates at numerous churches in Alabama; and

WHEREAS, following a 29-year career in religious ministry, Dr. Ireland, who has touched many lives and advanced many worthy causes, became Executive Director of ALCAP and, on April 8, 1998, he and his loving and supportive wife, Polly, will be presented a “love gift” for their devotion and outstanding contributions to ALCAP for 20 years; and

WHEREAS, Dr. Ireland also has contributed his time, energy, and many talents to numerous social, civic, and religious organizations and, as a result of his tireless hard work and unwavering commitment, has succeeded in compiling an impressive record of career and civic achievements, a record that has earned for him the admiration and respect of those persons who have had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby extended to Dr. Dennis L. (Dan) Ireland, for

whom a copy of this resolution shall be provided with sincere best wishes for continued success in future endeavors.

Approved April 29, 1998

Time: 11:34 A.M.

Act No. 98-422

H.J.R. 331 – Reps. Smith and Turnham

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF GORDON CONWAY OF CLANTON, ALABAMA.

WHEREAS, it is with deepest sorrow and regret that the Alabama Legislature records the death of Gordon Conway of Clanton, Alabama, on March 2, 1998, at the age of 73 years; and

WHEREAS, in a career in education which spanned more than 43 years, Gordon Conway, a native of Isabella, served successively as a vocational teacher in Sweetwater; as a teacher and principal at Isabella High School; and as Superintendent of the Chilton County School System for some 14 years; and

WHEREAS, over the years, in all aspects of his long and dedicated tenure, Mr. Conway remained committed in his resolve to provide and foster a quality education for the youth of Chilton County, and resolute in all his efforts on their behalf, and earned the highest admiration and respect of all with whom he was associated as an outstanding educator and a dedicated professional; and

WHEREAS, in an extension of service, Gordon Conway exhibited a spirit of community service and care and concern for his fellow man as reflected in his leadership and support in countless civic, religious, and fraternal organizations including the Clanton Lions Club, the Chilton County Emergency Assistance Center, the Alabama Farmers Federation, Alabama Cattlemen's Association, Alabama Baptist Board of Missions, Autauga Baptist Association, Chilton Baptist Association, Alabama Campers Mission, and Mulberry Baptist Church, where he was an active member for some 36 years; he was also a veteran of World War II, serving in the 102nd Division in Germany, and a member of the American Legion, and the 102nd Division Association and the Crossing of the Roer Association; and

WHEREAS, most especially, he was a devoted husband to his beloved wife, Evelyn Owen Conway; a loving father to son and daughter-in-law, David and Patricia W. Conway, and daughter and son-in-law, Martha and Bobby Atkinson; a proud grandfather

of three grandsons, Brent Douglas and Keith Owen Conway, and Grant Austin Atkinson; and cherished by other close family members and friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are indeed saddened by the death of Gordon Conway of Clanton, Alabama, and, by copy of this resolution, extend heartfelt sympathy to his family, whose sorrow we sincerely share.

Approved April 29, 1998

Time: 11:35 A.M.

Act No. 98-423

H.J.R. 405 – Reps. Hall (A), Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Hooper, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Pringle, Robinson, Rogers (J), Rogers (M),

Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis and Wren

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF JAMES DEFORD HAYS OF HUNTSVILLE, ALABAMA.

WHEREAS, it is with profound sorrow and regret that the Alabama Legislature records the death of James DeFord Hays of Huntsville, Alabama on April 4, 1998, at the age of 88 years; and

WHEREAS, a prominent and longtime member of the Huntsville business community, and one of Madison County's most outstanding citizens, James DeFord Hays was a founding director of Compass Bank, playing a key role in its creation in the merger of State National Bank and Central Bank, and moving Alabama forward with a strong in-state bank; and

WHEREAS, over the years, he also provided invaluable leadership and support to a number of civic and community institutions, organizations, and involvements including, among many, American National Bank, Central Bank and Central Bancshares of the South, Huntsville Industrial Associates, the Alabama Heritage Trust Fund, the Alabama Trust Fund in Montgomery, the Airport Authority, the Alabama Farm Bureau Federation, of which he served as president for 17 years, and as a longtime member of Central Presbyterian Church of Huntsville; and

WHEREAS, indeed, James Hays, a gentle, caring, and compassionate man, was a man of great stature who brought great credit and distinction to himself through his career and civic achievements, and, through his many activities, greatly improved the quality of life within the community he loved, and earned the admiration and respect of all who were privileged to know him; and

WHEREAS, he was also a devoted husband to his wife, Annie Wade Street Hays; a loving father to his two sons, James Richard Hays and John Wade Hays; a cherished brother of Elizabeth Ann Hays Redick; a proud grandfather of four grandchildren and five great-grandchildren; and a friend to many; and

WHEREAS, born at the family farm at Haysland in south Huntsville, Mr. Hays earned a degree in chemical engineering from the University of Alabama, and was awarded an honorary doctorate of law from the University of Alabama in 1977, and an honorary doctorate degree from Auburn University; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA,

the University of Alabama, and was awarded an honorary doctorate of law from the University of Alabama in 1977, and an honorary doctorate degree from Auburn University; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are indeed saddened by the death of James DeFord Hays of Huntsville, Alabama, and, by copy of this resolution, extend heartfelt sympathy to his family, whose sorrow we truly share.

Approved April 29, 1998

Time: 11:36 A.M.

Act No. 98-424

H.J.R. 423 – Rep. Graham

HOUSE JOINT RESOLUTION

COMMENDING MARTHA L. MARTIN FOR OUTSTANDING SERVICE.

WHEREAS, it is with great pleasure that the Legislature of Alabama recognizes Martha L. Martin, who is retiring, effective June 1, 1998, following 23 years of dedicated service at Russell Corporation, Alexander City, Alabama; and

WHEREAS, following a tenure of service as director of Kinder Care Learning Center, Marietta, Austell, Georgia (1969-1975), Martha L. Martin began her career at Russell Corporation in 1975, serving successively as supply technician, order coordinator, and as assistant supervisor, sewing and packing, since 1986; and

WHEREAS, over the years at Russell Corporation, Ms. Martin has been greatly admired as a loyal and dependable employee with extraordinary ability and a seemingly unlimited capacity for work; she has served with great dedication, and the highly efficient manner in which she has handled her many duties and responsibilities has earned for her the sincere regard of all with whom she has been associated; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on the occasion of her retirement, and in recognition of her many years of outstanding service, we hereby most highly commend Martha L. Martin, for whom a copy of this resolution shall be provided with sincere regard and best wishes for the future.

Approved April 29, 1998

Time: 11:37 A.M.

Act No. 98-425

H.J.R. 436 – Rep. Page

HOUSE JOINT RESOLUTION

COMMENDING JAMES RODERICK CORRELL FOR OUTSTANDING BRAVERY AND COURAGE.

WHEREAS, James Roderick “Rick” Correll of Keener, Alabama, is deserving of highest honor and commendation for his quick, decisive, and courageous action in coming to the assistance of another Volunteer Fire Department (V.F.D.) firefighter in a life-threatening situation; and

WHEREAS, Mr. Correll, whose devotion to duty is worthy of emulation, was a highly regarded member of the Keener Volunteer Fire Department, serving with honor and professionalism as fire chief for 25 years, and with unexcelled service as a reserve deputy sheriff for 17 years and vice commander for the past 12 years; and

WHEREAS, a certified law enforcement officer of the Alabama Peace Officers Standards and Training Commission, Mr. Correll, during the summer of 1997, came to the assistance of another V.F.D. firefighter who was trying to extinguish a fire and protect himself from a deranged person who had set the fire and who was armed and shooting wildly; and

WHEREAS, under the most adverse conditions and at extreme personal risk, Mr. Correll was able to talk the individual into surrendering, thereby exemplifying the highest degree of concern of one human being for another who is in distress; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That James Roderick Correll is indeed commended for his outstanding courage and selfless contributions to the Keener Community, and it is further directed that a copy of this resolution be provided to him as a token of our sincere admiration and esteem.

Approved April 29, 1998

Time: 11:38 A.M.

Act No. 98-426

H.J.R. 433 – Reps. Hogan and Guin

HOUSE JOINT RESOLUTION

COMMENDING LUCIOUS CARROLL RICHARDSON ON HIS OUTSTANDING MILITARY ACCOMPLISHMENTS.

WHEREAS, Lucious Carroll Richardson has unselfishly served Walker County and the State Department of Veterans Affairs with great dedication and distinction, and is deserving of special public recognition and highest commendation; and

WHEREAS, born in Walker County on March 19, 1937, Mr. Richardson, who served with valor and distinction as a member of the United States Army, was a highly decorated officer of the Korean and Vietnam Wars, including tours of duty in Italy and Germany for 20 year; and

WHEREAS, after his retirement from the military, he graduated from Walker College in Jasper, Alabama, and the University of Alabama in Birmingham; and

WHEREAS, a highly successful businessman, Mr. Richardson was appointed Veterans Administration District Manager for area IV, which includes 11 counties and two VA Medical Centers, and garnered numerous medals and awards in recognition of his outstanding service including the Distinguished Citizen Award, State Employee of the Year Award, and Veteran Service Officer of the Year Award; and

WHEREAS, Mr. Richardson has upheld the highest ideals of professionalism through his work for veterans as founder of the Lucious C. Richardson Veterans Day Parade for the past 18 years and, for his personal dedication and selfless efforts for veterans, the Mayor of Jasper proclaimed November 7-11, 1985, Lucious C. Richardson Week; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with great pleasure that Lucious Carroll Richardson, who indeed serves as a worthy role model in his community, is recognized and honored for his outstanding service to Walker County.

BE IT FURTHER RESOLVED, That a copy of this resolution shall be provided as an expression of our tribute and esteem.

Approved April 29, 1998

Time: 11:39 A.M.

Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Houston, Jackson, Johnson (E), Johnson (R), Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Pringle, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey, Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance, Venable, Warren, White, Willis and Wren

HOUSE JOINT RESOLUTION

COMMENDING PATRICIA GUNTER ODOM UPON HER SELECTION AS 1998 MS. SENIOR ALABAMA.

WHEREAS, it is with highest commendation that the Alabama Legislature recognizes Patricia Gunter Odom as 1998 Ms. Senior Alabama; and

WHEREAS, Ms. Odom, age 60, is indeed a worthy role model for others through her volunteerism in numerous community organizations, including Woman's Club, Dawn to Dusk, Sunshine Center, and as a member of the Knife and Fork Association; and

WHEREAS, she is the recipient of several honors and awards, and was featured on "Everyday Heroes," chosen Best Dressed in Montgomery, and nominated for the Montgomery Jaycees Distinguished Service Award, Women of Achievement Award, and selected as 1983 Citizen of the Year Award; and

WHEREAS, a member of Epsilon Sigma Alpha, Montgomery Symphony League, and the Montgomery Concert Association, Ms. Odom also is an ardent supporter of the mentally ill, and serves in numerous capacities with both the Montgomery and Alabama Mental Health Associations, and the State of Alabama Mental Health and Mental Retardation Association; and

WHEREAS, through her devotion to higher ideals, she raised funds to support beautification projects, was instrumental in relocating the Shakespeare Festival to Montgomery, served on the Montgomery Area United Way Speaker's Bureau, and is an active member of the Montgomery League of Women Voters; and

WHEREAS, a devoted and faithful member of Frazer United

organizations, including Woman's Club, Dawn to Dusk, Sunshine Center, and as a member of the Knife and Fork Association; and

WHEREAS, she is the recipient of several honors and awards, and was featured on "Everyday Heroes," chosen Best Dressed in Montgomery, and nominated for the Montgomery Jaycees Distinguished Service Award, Women of Achievement Award, and selected as 1983 Citizen of the Year Award; and

WHEREAS, a member of Epsilon Sigma Alpha, Montgomery Symphony League, and the Montgomery Concert Association, Ms. Odom also is an ardent supporter of the mentally ill, and serves in numerous capacities with both the Montgomery and Alabama Mental Health Associations, and the State of Alabama Mental Health and Mental Retardation Association; and

WHEREAS, through her devotion to higher ideals, she raised funds to support beautification projects, was instrumental in relocating the Shakespeare Festival to Montgomery, served on the Montgomery Area United Way Speaker's Bureau, and is an active member of the Montgomery League of Women Voters; and

WHEREAS, a devoted and faithful member of Frazer United Methodist Church, Ms. Odom has been married to her supportive husband, Gordon "Don" Odom, for more than 40 years; and they are proud parents of two sons and seven grandchildren; and

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon her selection as 1998 Ms. Senior Alabama, and in recognition of outstanding achievement, we hereby most highly commend Patricia Gunter Odom, a lady of exceptional talent and ability, for whom a copy of this resolution shall be provided.

Approved April 29, 1998

Time: 11:40 A.M.

Act No. 98-428

H.J.R. 424 – Rep. Graham

HOUSE JOINT RESOLUTION

COMMENDING GERALD C. MARTIN FOR DISTINGUISHED SERVICE TO PUBLIC EDUCATION.

WHEREAS, it is with great pleasure that the Legislature of Alabama recognizes Gerald C. Martin on the occasion of his retirement, effective June 1, 1998, following a distinguished career in the field of education spanning some 38 years; and

WHEREAS, for Gerald C. Martin, the conclusion of the 1997-1998 school year will mark the end of a long and successful tenure at Horseshoe Bend High School, Alexander City, Alabama; and

WHEREAS, Mr. Martin, a native of Hackneyville, Alabama, and a graduate of Hackneyville High School, earned his B.S. degree in Education from Auburn University, and a Masters of Education and a Specialist in Education degree from West Georgia College, and served successively as a social studies teacher with the Cobb County Board of Education at Kennesaw School and Bernard Awtrey Junior High (1960-70), and as assistant principal at East Cobb Middle School in Georgia (1970-75), followed by service as a social studies teacher at Goodwater High School in the Coosa County School System (1975-77), and Hackneyville High School, Tallapoosa County Board of Education (1977-1992), prior to joining the faculty at Horseshoe Bend High School in 1992; and

WHEREAS, over the course of his long and dedicated tenure, Gerald Martin, a true exemplar of professionalism, has demonstrated utmost commitment and concern for the education and well-being of the young students under his tutelage and care, and the lasting impact he has made upon their lives has greatly contributed to their future as successful and productive adults; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That upon the occasion of his retirement, and in recognition of his outstanding contributions and service to public education, we hereby extend highest commendation to Gerald C. Martin of Alexander City, Alabama, for whom a copy of this resolution of sincere regard and best wishes for the future shall be provided.

Approved April 29, 1998

Time: 11:41 A.M.

Act No. 98-429

H.J.R. 462 – Reps. McMillan, Penry,
Warren and White

HOUSE JOINT RESOLUTION

COMMENDING J. LARRY NEWTON ON RETIREMENT.

WHEREAS, on the occasion of his retirement, it is with highest commendation that the Alabama Legislature recognizes J. Larry Newton for his distinguished career as an educator and particularly for his outstanding accomplishments as Superintendent of the Baldwin County Public School System; and

WHEREAS, Mr. Newton has been a dedicated educator for 38 years, including 13 years as Superintendent of Education in Baldwin County where he increased the overall education budget for the public schools from over \$57 million in 1985 to over \$183 million in 1998, and more importantly, by the influence he has in the community and by providing an enviable public school system, he has caused the growth and economy of Baldwin County to soar, and under his dynamic leadership 20 new schools with 800 classrooms were added and special education and computer science programs have been added for a student population of almost 21,000, and more than 200 business-school partnerships have been developed; and

WHEREAS, the academic standards and test scores in the Baldwin County School System have earned the highest rating in the state and indeed many have surpassed the national average and secured the highest rating in the 1998 Goals 2000 Technology Grants competition; for two consecutive years the top environmental educators in Alabama have been from Baldwin County and in 1997, both of Alabama's Elementary and Secondary Teachers of the Year were from the Baldwin County district; the Baldwin County Public School System boasts of two of only 15 existing talents unlimited demonstration program sites in the nation which is a National Diffusion Network project that cultivates intellectual skills of students; and under the vision of J. Larry Newton, exemplary programs in technology, science, character education, gifted education, special services and career-technical education are second to none; and

WHEREAS, J. Larry Newton earned his undergraduate degree from Troy State University and received his Master's in Education Administration from Auburn University and earned his AA in Education Administration from the University of Alabama in 1968; he has devoted himself to numerous civic activities, and he is a member of the Rotarians and is a devoted member and deacon of the First Baptist Church in Elberta; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in tribute to his many accomplishments, and in appreciation of his extraordinary contributions to the children of Baldwin County and to the growth of his community and its economy, J. Larry Newton is hereby given highest commendation for his dedicated service.

BE IT FURTHER RESOLVED, That a copy of this resolution be prepared for presentation to J. Larry Newton on the occasion of his retirement and as a token of our high esteem and best wishes in the future for him and his lovely wife Melba Purdue Newton.

Approved April 29, 1998

Time: 11:42 A.M.

Act No. 98-430

H.J.R. 445 – Rep. Dean

HOUSE JOINT RESOLUTION

COMMENDING RENATA AMARA STANLEY UPON HER SELECTION AS VALEDICTORIAN OF THEODORE HIGH SCHOOL.

WHEREAS, noted with highest commendation are the numerous accomplishments of Renata Amara Stanley, a student at Theodore High School in Theodore, Alabama; and

WHEREAS, Renata, daughter of Arthur and Shinta Stanley, who plans to attend the University of Alabama at Birmingham, is an active member of numerous clubs including Springhill College Upward Bound, Math Team, Scholars Bowl, Kimberly-Clark Hi-Q, Junior Civitan, National Honor Society, and Peer Leaders; and

WHEREAS, an accomplished pianist, Renata also is the recipient of numerous prestigious awards and honors such as National Merit Scholar, WEAR TV 3/Pepsi Student of the Week, Mobile Register Student Spotlight, and Student of the Week, as well as garnered countless outstanding scholastic achievement awards; and

WHEREAS, Renata is indeed a young Alabamian of extraordinary accomplishment who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY OF THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of her selection as valedictorian of Theodore High School, highest commendation is hereby bestowed upon Renata Amara Stanley, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved April 29, 1998

Time: 11:43 A.M.

Act No. 98-431

H.J.R. 443 – Reps. McMillan and Penry

HOUSE JOINT RESOLUTION

HONORING THE MEMORY OF WILLIAM FULLER EWING OF GULF SHORES, ALABAMA.

WHEREAS, noted with deep and abiding sorrow is the tragic, senseless, and untimely death of William Fuller Ewing of Gulf Shores, Alabama; and

WHEREAS, Mr. Ewing, or Manzy as he was affectionately known, was an extraordinarily skillful businessman who opened Ewing's Quick Mart in 1962, a favorite place for fishermen, volunteer firemen, or part-time or local residents who needed gas, milk, beer, or just good company; and

WHEREAS, he embodied the essence of goodness, honesty, hard work and dedication in everything he did and exerted a profound influence on all those whose lives he touched; the way he lived his life and treated his family is indeed a living testimony of his Christian faith, and his deeds of kindness will long be remembered; and

WHEREAS, left to cherish the fond memories of Mr. Ewing are his devoted sisters, Betty Byrd, Irene and Julia Ewing, and Barbara Chafey; brothers, Charles and Robert Ewing; and other relatives and countless friends whose lives he touched through acts of compassionate concern; and

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we gratefully recognize the life of the late William Fuller Ewing and, by copy of this resolution, send our sincere condolence to his loving family who seek solace in cherished memories that will live forever.

BE IT FURTHER RESOLVED, That deepest sympathy is hereby extended to the family of Mr. Ewing, for whom a copy of this resolution shall be provided.

Approved April 29, 1998

Time: 11:44 A.M.

Act No. 98-432

H.J.R. 396 – Rep. Rogers (J)

HOUSE JOINT RESOLUTION

COMMENDING HARRY C. MARZETTE FOR HIS OUTSTANDING EFFORTS IN RESPONDING TO THE ABORTION CLINIC BOMBING.

WHEREAS, Harry C. Marzette has contributed extensively to the citizens of his community and the great State of Alabama through his many activities and, as a tribute to his exemplary record of professional and community service following the bombing of the New Women All Women Health Care Clinic on January 29, 1998, he is deserving of special public commendation; and

WHEREAS, Chief Marzette exemplified the highest standards of professionalism acting in his capacity as Chief of the UAB Police

Department by ensuring the immediate response to this emergency situation by utilizing the staff and resources under his control to further protect and ensure the safety of his fellow citizens and the properties of this great state; and

WHEREAS, under Chief Marzette's direction, the UAB Police Department, working along with the Birmingham Police Department, Federal Bureau of Investigation, and the Alcohol, Tobacco, and Firearms National Response Team, swung into immediate action to ensure the safety of all involved and ease the fear this emergency situation evoked; and

WHEREAS, under the direction of Chief Marzette, the UAB Police Department immediately began an investigation into the incident, conducted massive searches, and were able to assure hospital employees of their safety; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Chief Harry C. Marzette is commended on the magnitude of his community service and, by copy of this resolution, extended sincere best wishes for continued success.

Approved April 29, 1998

Time: 11:45 A.M.

Act No. 98-433

H.J.R. 334 – Rep. Page

HOUSE JOINT RESOLUTION

RECOGNIZING MAY 17, 1998, AS ANOREXIA NERVOSA AND RELATED DISORDERS AWARENESS DAY AND COMMENDING CASEY BROWNING.

WHEREAS, thanks to the efforts of many individuals, including Casey Browning, Miss Etowah County, and spokesperson of the national organization Anorexia Nervosa and Associated Diseases (ANAD), people across the nation are being made aware of the danger and suffering caused by serious eating disorders; and

WHEREAS, serious eating disorders affect some 8,000,000 persons annually in every demographic group in the nation, resulting in chronic, and often fatal, deterioration of the physical body accompanied by severe psychological suffering; and

WHEREAS, in addition to causing serious health problems such as malnutrition, heart, kidney, and liver damage, digestive system damage, and dental disease, eating disorders annually cause more deaths than any other form of mental illness; and

WHEREAS, although anorexia and bulimia can be treated and conquered, many persons suffer needlessly through their denial of the existence of the illness, leaving family and friends to intervene and seek help for their loved ones; now therefore.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize May 17, 1998, as Anorexia Nervosa and Associated Disorders Awareness Day in Alabama, and commend Casey Browning, Miss Etowah County, for her efforts in bringing about statewide awareness on these serious eating disorders, and direct that a copy of this resolution be provided to her.

Approved April 29, 1998

Time: 11:46 A.M.

Act No. 98-434

H.J.R. 454 – Reps. Hooper, Allen, Baker, Bandy, Black (L), Black (M), Box, Boyd, Burke, Buskey, Carns, Carothers, Carter, Clark (J), Clark (W), Clouse, Collins, Crigler, Curry, Dean, Dolbare, Drake, Dukes, Flowers, Ford, Ford (J), Fuller, Gaines, Galliher, Gaston, Gipson, Graham, Guin, Hall (A), Hall (L), Hamilton, Hammett, Haney, Hawk, Hawkins, Hayden, Hill, Hilliard, Hinshaw, Hogan, Holmes, Houston, Humphries, Jackson, **Johnson (E), Johnson (R)**, Jorgensen, Kennedy, Knight (A), Knight (J), Laird, Layson, Letson, Lindsey, Maull, McAdory, McClammy, McDaniel, McKee, McMillan, Melton, Millican, Minnifield, Mitchell, Moore, Morrison, Morrow, Morton, Murphree, Newton (C), Newton (D), Page, Papucci, Parker (P), Parker (T), Payne, Penry, Perdue, Pringle, Robinson, Rogers (J), Rogers (M), Sanderford, Sanderson, Seibenhener, Sims, Smith, Spratt, Starkey,

Thomas (D), Thomas (J), Townsend, Turner, Turnham, Vance,
Venable, Warren, White, Willis and Wren

HOUSE JOINT RESOLUTION

CONGRATULATING WILLIAM J. AND LEURA GARRETT
CANARY ON THE BIRTH OF A DAUGHTER.

WHEREAS, the Alabama Legislature notes with congratulations the birth of a beautiful baby girl, Margaret Garrett Canary, on March 24, 1998, at 5:37 p.m., to proud parents, Bill and Leura Canary, of Montgomery, Alabama; and

WHEREAS, Mr. Canary is President of William J. Canary and Company, Inc., and Chairman of the Board, Capitol Group, L. L. C., and former Special Assistant to President George Bush and Chief of Staff of the Republican National Committee; and Mrs. Canary is Assistant United States Attorney for the Middle District of Alabama, Chief of Civil Division, and former State Assistant Attorney General; and

WHEREAS, Margaret Garrett, granddaughter of the late Senator Eugene Garrett and great granddaughter of the late Senator Will Garrett is a delightful addition to the Canary family; and

WHEREAS, we indeed share the joy and pleasure of Bill and Leura Canary and their son, Will, on the birth of Margaret Garrett, and wish for her a lifetime of happiness and good health; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we heartily congratulate Mr. and Mrs. William J. Canary Jr., on the birth of their daughter, Margaret Garrett Canary, and further direct that they receive a copy of this resolution with sincere best wishes for their daughter's future.

Approved April 29, 1998

Time: 11:47 A.M.

Act No. 98-435

H.J.R. 169 – Rep. Melton

HOUSE JOINT RESOLUTION

COMMENDING CYNTHIA L. JOHNSON FOR OUTSTANDING SERVICE TO THE TUSCALOOSA-WEST ALABAMA COMMUNITY.

WHEREAS, born in Gainesville, Alabama, to the Reverend Willie L. and Martha Johnson, Cynthia Johnson accepted Christ as her Savior at a youthful age and joined the First African Baptist Church; she attended public school in Gainesville and

as her Savior at a youthful age and joined the First African Baptist Church; she attended public school in Gainesville and Birmingham, and began working as a nurse-receptionist for Dr. Willie Bruce Mitchell, and later for O'Rourke Cleaners; and

WHEREAS, over the years, despite being wheelchair bound and suffering other health problems, Cynthia Johnson, who is now 86 years old, has been a central force and influence in her community, and a special friend and source of inspiration to many; and

WHEREAS, a lady of warm and gentle spirit, she is blessed with a sunny disposition and a heart full of love for her family and others of which she gives freely and which is returned in full measure by all those whose lives she has touched in genuine care and concern; and

WHEREAS, she is a lady of deep religious faith and a faithful church member of her church, serving as a member of the Mozart Choir, chairperson of the East End Circle and the Personal Service Committee, secretary of the Lott Carey Circle, and president of the General Missionary Society for 20 years; and

WHEREAS, Mrs. Johnson has further served her community as a devotional leader in the NABD Women's Convention, as co-chair of the Courtesy Committee in the Alabama Women's Convention, and as secretary of the Cosmos Study Club for over 30 years; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding service to the Tuscaloosa-West Alabama community, and to her fellow man, we hereby most highly commend Cynthia L. Johnson of Tuscaloosa, Alabama, for whom a copy of this resolution shall be provided.

Approved April 29, 1998

Time: 11:48 A.M.

Act No. 98-436

H.J.R. 322 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING THE PRATTVILLE HIGH SCHOOL LADY LIONS BASKETBALL TEAM ON AN OUTSTANDING 1997-1998 SEASON.

WHEREAS, highest commendation and congratulations are herein extended to the Prattville High School Lady Lions on an outstanding 1997-1998 basketball season; and

WHEREAS, the talented Lady Lions, under the able leadership of Head Coach Sam Peak, most ably assisted by Coaches Sabrina

Tutchtone and John Mills, and Manager, Shannon Lipscomb, finished the season with a school record 29 wins with only 4 losses; took the Autauga County Tournament for the eighth consecutive year, and the Area Championship for the fifth straight year; made their fourth appearance at and won the Regionals; advanced to the final four of the State Basketball Playoffs; and finished third in the state; and

WHEREAS, contributing to an exceptional team effort were team members Emily Barnett, Ayana Clinton, Alyson Cobb, Erica Edwards, Miranda Hasley, Shelly Hasley, Megan Hoffman, Jill Hoffman, Carol McDonald, Glenda Motley, TaShondrea Moton, Andrea Myers, Rosalyn Stoudmire, and Keri Whittle; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, Representative H. Mac Gipson and Senator Wendell Mitchell hereby join with the Alabama Legislature in commending and congratulating Coach Sam Peak and the Prattville High School Lady Lions Basketball Team, and direct that a copy of this resolution be provided for appropriate presentation and school display.

Approved April 29, 1998

Time: 11:49 A.M.

Act No. 98-437

H.J.R. 260 – Rep. Thomas (D)

HOUSE JOINT RESOLUTION

RECOGNIZING KITIYA TEERANAVANICH OF BANGKOK, THAILAND.

WHEREAS, Kitiya Teeranavanich, an exchange student from Bangkok, Thailand, has been living in Springville, Alabama, with Host Parents Jerry and Betty Phillips and attends Springville High School, where she has made many American friends; and

WHEREAS, the daughter of Ratpong and Bangon Teeranavanich, Kitiya's stay in Alabama has been possible through her participation in the American Intercultural Student Exchange, an outstanding educational foundation coordinated by Kathy Story; and

WHEREAS, although she has already received her diploma in Thailand and has been accepted to Kasetsart University in Bangkok, where she will study humanities, Springville High School will include her in their graduation ceremony; and

WHEREAS, following her studies at Kasetsart, Kitiya hopes to open a Thai restaurant in California, if her mother will do the cooking; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby recognize Kitiya Teeranavanich and commend her for her stay in Springville, and by copy of this resolution wish her well in all her future endeavors.

Approved April 29, 1998

Time: 11:50 A.M.

Act No 98-438

H.J.R. 460 – Rep. Burke

HOUSE JOINT RESOLUTION

COMMENDING THE IDER CHEERLEADERS ON WINNING THE WORLD CHEERLEADER ASSOCIATION CHAMPIONSHIP.

WHEREAS, it is with great pride and pleasure that congratulations are herein extended to the Ider cheerleaders on winning the World Cheerleader Association Championship in Nashville, Tennessee, on December 31, 1997; and

WHEREAS, superbly coached by cheerleader sponsor, Kathy Wells, the squad consists of seniors Aimee Gourdouze (head), Katie Kilgore (co-head), Jamie Elliott, Connie Traylor, and Farrah Tullis; juniors Holly Hammonds, Vanessa Lancaster, and Brooke Todd; and freshman Ashley Gann; and

WHEREAS, in their determination to succeed, the squad and their sponsor devoted countless hours to polishing their program and performed flawless routines in the preliminaries and again in the finals to defeat 24 squads from 13 states to win the championship; and

WHEREAS, their winning routines, perfected by dedication, athletic ability, and love of cheerleading, consisted of cheering, dancing, stunting, and tumbling and had previously led the squad to the 2A State Championship in Hanceville and the World Cheerleader Association regional, paving their way to the national title; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation and heartiest congratulations are hereby extended to the Ider cheerleaders on winning the World Cheerleader Association Championship and for the exemplary manner in which they represented their school and community.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the Ider cheerleaders for appropriate presentation and display.

Approved April 29, 1998

Time: 11:51 A.M.

Act No. 98-439

H.J.R. 35 – Rep. Thomas (D)

HOUSE JOINT RESOLUTION

EXPRESSING LEGISLATIVE INTENT TO PROHIBIT ADOPTIONS BY HOMOSEXUAL COUPLES.

WHEREAS, it has come to our attention that New Jersey officials recently approved a policy allowing the adoption of children by homosexual couples, even though many eligible heterosexual couples were, and are, available and eager to adopt; and

WHEREAS, sociological studies, as well as common sense, suggest strongly that a setting involving a traditional heterosexual couple provides the most stable, loving, and nurturing environment in which to raise a young child; and

WHEREAS, legislation will be proposed in the 1998 Regular Session of the Alabama Legislature to limit adoption to eligible and responsible heterosexual couples; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby express our intent to prohibit child adoption by homosexual couples.

RESOLVED FURTHER, That a copy of this resolution be forwarded to the Office of the Governor of New Jersey as an expression of our strong sentiment on this issue, and as an appeal to New Jersey officials to rethink the politically expedient but short-sighted decision to allow adoption by homosexual couples.

Approved April 29, 1998

Time: 11:52 A.M.

Act No. 98-440

H.J.R. 397 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING COACH BARRY WOOD MOHUN AS 1998 COACH OF THE YEAR.

WHEREAS, Barry Wood Mohun, Head Varsity Boys Basketball Coach at Prattville High School, has been selected by the

Montgomery Advertiser as 1998 Coach of the Year for 5A and 6A Schools in Alabama following an outstanding 1998 season record of 27-8 and a State Final Four tournament appearance and, in recognition of the vital role he has provided to the students under his tutelage, is deserving of public recognition; and

WHEREAS, born on April 11, 1958, Mr. Mohun was a graduate of Sidney Lanier High School, attended Huntingdon College from 1976-79, and received his Bachelor of Science Degree from Bellhaven College, and Master's Degree from Northeast Louisiana University; and

WHEREAS, we further note that under the phenomenal leadership of Coach Mohun, the St. James High School Basketball Team had its best season in school history in 1984 with a 20-3 record, and T.R. Miller High School experienced an exciting first place finish in regular season and an Area Tournament Championship in 1987; and

WHEREAS, Coach Barry Wood Mohun has encouraged countless young people over the years as a teacher and coach and is applauded for the fine example he has established for his students and fellow educators; and

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievements, and as recipient of the Coach of the Year Award, Representative H. Mac Gipson and Senator Wendell Mitchell hereby join with the Alabama Legislature in commending and congratulating Coach Mohun, and further direct that a copy of this resolution be presented to him with highest praise and honor.

Approved April 29, 1998

Time: 11:53 A.M.

Act No. 98-441

H.J.R. 340 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING SAMUEL RAY PEAK AS 1998 COACH OF THE YEAR.

WHEREAS, Samuel Ray Peak has been selected by the Montgomery Advertiser as Coach of the Year for 5A and 6A Schools in Alabama and, in recognition of the vital role he has provided to the students under his tutelage, is deserving of public recognition; and

WHEREAS, born on March 19, 1947, in Troy, Alabama, Mr. Peak was a graduate of Goshen High School and Troy State

University, where he began his coaching career, and served as a dedicated volunteer assistant at Pike County Junior High; and

WHEREAS, he also brought esteem and respect to the athletic program at Dixie Academy, and as an assistant coach at Prattville during the 1990-91 season, ultimately being named head coach in 1991; and

WHEREAS, countless young people have been inspired, encouraged, and touched by the care and concern shown by Coach Samuel Ray Peak for his professional accomplishments and contributions to high school athletics, and do further direct that he receive a copy of this resolution with our warmest personal regards.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Representative H. Mac Gipson and Senator Wendell Mitchell hereby join with the Alabama Legislature in commending and congratulating Coach Samuel Ray Peak upon his selection as 1998 Coach of the Year, and do further direct that he receive a copy of this resolution with our warmest personal regards.

Approved April 29, 1998

Time: 11:54 A.M.

Act No. 98-442

H.J.R. 446 – Rep. Dean

HOUSE JOINT RESOLUTION

COMMENDING TONY VAN PHAN FOR OUTSTANDING ACADEMIC ACHIEVEMENTS.

WHEREAS, noted with highest commendation are the numerous and notable accomplishments of Hai Son Phan, familiarly known as Hai Son, Salutatorian at Theodore High School in Theodore, Alabama; and

WHEREAS, Hai Son, who plans to attend the University of Alabama in Tuscaloosa, Alabama, is the son of Anh and Banh Phan of Mobile, Alabama, and has been actively involved in numerous school organizations including a member of the Spanish, Science, Junior Civitan, and Mu Alpha Theta Clubs; and

WHEREAS, he also was an honor roll student, and received Outstanding Student Awards in Spanish, Chemistry, Geometry, and Algebra, among others; and

WHEREAS, Hai Son is indeed a young Alabamian of extraordinary accomplishments who has brought great credit to her family, school, and community; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, highest commendation is hereby bestowed upon Tony Van Phan, for whom a copy of this resolution of sincere praise and esteem shall be provided.

Approved April 29, 1998

Time: 11:55 A.M.

Act No. 98-443

H.J.R. 238 – Reps. Wren, McKee, Hooper,
Holmes, Knight (J) and
McClammy

HOUSE JOINT RESOLUTION

COMMENDING WILLIAM C. CHANDLER FOR OUTSTANDING PROFESSIONAL ACHIEVEMENTS.

WHEREAS, William C. Chandler has brought great credit and distinction to himself through his career achievements and is to be commended for his dedicated service to young people across America; and

WHEREAS, impeccably qualified, Mr. Chandler, who is founder of the Alabama Youth Legislature program, has been General Director of the YMCA since 1953; he received a B.S. degree from Rice University, a B.A. degree from the University of Georgia, and pursued additional graduate studies; and

WHEREAS, he also served his country with leadership abilities, patriotism, and dedication in the United States Navy in the Pacific Theater during World War II, thereby obtaining the rank of Lt. J.G.; and

WHEREAS, a resident of Montgomery, Alabama, he provided unselfish service as director of the Youth Legislature for its first 25 years, and has provided progressive attitudes with such organizations as Lions Clubs International, the Blue/Gray Football Classic, and the Hitchcock Committee, recognizing Christian Leadership in High Schools; and

WHEREAS, he further played a vital role as a member of the executive committee with the Gift of Life Foundation, and as Chairman of the Job Corps Steering Committee and Gift of Life Endowment, among others; and

WHEREAS, the recipient of numerous prestigious awards, he was presented the Medal of Honor by the President of Italy, Order

of the Knight of the Lion by the President of Finland, received the NCLC National Award for Outstanding Youth, and was inducted into both the Montgomery Sports and Blue and Gray Halls of Fames; and

WHEREAS, celebrating its 50th Anniversary during March 1998, the Alabama Youth Legislature is extremely proud to recognize Mr. William C. Chandler for his extraordinary efforts in exemplifying our Youth in Government that is so critical to the future of our cities, towns, and neighborhoods; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mr. William C. Chandler is hereby commended for his tradition of highest quality and professionalism while displaying excellence in professional leadership and, by copy of this resolution, commended on his long and distinguished career to America's youth.

Approved April 29, 1998

Time: 11:56 A.M.

Act No. 98-444

H.J.R. 484 – Rep. Payne

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF BILL GAFFORD OF NEW ULM, MINNESOTA.

WHEREAS, recorded with deep and abiding sorrow is the lamentable death of Bill Gafford, a prominent citizen of New Ulm, Minnesota, on February 14, 1998; and

WHEREAS, Mr. Gafford, brother of our former colleague and friend, Bob Gafford, was the owner and operator of Gafford Farm Supply for 20 years, and served with honor and distinction as president of the New Ulm City Council for 24 years; and

WHEREAS, he also succeeded in compiling an impressive record of career achievements while gaining phenomenal success in building the Marktplatz Mall in New Ulm to help solidify the downtown retail district; and

WHEREAS, a man of vision and an unsung hero who always had the best interests of New Ulm in mind, Mr. Gafford made a difference in his community and was willing to do whatever needed to be done to finish the job in a professional manner; he also was respected for his thorough knowledge of facts and tedious research and preparation of all issues in which he was involved; and

WHEREAS, an active member of Knights of Columbus and the American Legion, Mr. Gafford was a loving and supportive husband to his wife, Katherine, a devoted father to his children, and especially enjoyed spending leisure hours with his nine grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the life and selfless service of the late Bill Gafford is recognized with gratitude and praise, and it is further directed that a copy of this resolution be provided to his children, with sincere condolence.

Approved April 29, 1998

Time: 11:57 A.M.

Act No. 98-445

H.J.R. 279 – Reps. Jorgensen, Hall (A),
Hall (L), Hinshaw, Haney,
Papucci and Sanderford

HOUSE JOINT RESOLUTION

MOURNING THE DEATH OF GERALDINE HARBIN MARONEY.

WHEREAS, grievously mourned is the death of Geraldine (Gerry) Maroney of Madison County, Alabama, on February 27, 1998; and

WHEREAS, a native of Madison County, and the daughter of George Washington and Nancy Harbin, Geraldine Harbin Maroney served as a member of the United States Air Force, and was married to Vernon Maroney for some 41 years; she was also a loving and devoted mother to her children, Lucretia, GerriAnne, Kelley Sue; a proud grandmother and great-grandmother to her four grandchildren and two great-grandchildren; and a faithful member of Harmony Baptist Church of Tony, Alabama; and

WHEREAS, further, Gerry Maroney displayed a special care and concern for the safety and well-being of her fellow citizens and her community as a certified volunteer firefighter and emergency medical technician with the Harvest Volunteer Fire Department, a team of dedicated men and women, who at risk to their own personal safety, stand ever ready to provide prompt and professional response in times of threat or crisis; and

WHEREAS, in addition, she was a member of the Alabama Association of Volunteer Fire Departments and the Alabama Association of EMTs and Paramedics, and took an active role in political affairs, both on a local level and with other community groups; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That even as her death is mourned, thanks are given for the life and service of Geraldine Harbin Maroney, and, by copy of this resolution, deepest sympathy is herein extended to her family, whose sorrow we sincerely share.

Approved April 29, 1998

Time: 11:58 A.M.

Act No. 98-446

H.J.R. 401 – Rep. Smith

HOUSE JOINT RESOLUTION

HONORING MULBERRY BAPTIST CHURCH OF MAPLESVILLE, ALABAMA, ON ITS 180TH ANNIVERSARY.

WHEREAS, it is with a sense of great pride that the House of Representatives records the 180th Anniversary of Mulberry Baptist Church in Maplesville, Alabama; and

WHEREAS, Mulberry Baptist Church was established in 1818 by founders who pledged to give unreservedly of themselves and all they possessed to Almighty God, and to take the Scriptures as their rule of faith and practice in governmental and civic affairs, and in their personal values; and

WHEREAS, study and application of Biblical principles has been a continuing characteristic of the church throughout its history and, in times of want and in times of plenty, members have practiced sacrificial and systematic giving for God's Kingdom and His works around the world; and

WHEREAS, in the home, parents have served as catalysts in strengthening the home and family life through quiet example of reverence for God; and

WHEREAS, from humble beginnings, leaders and members at the Mulberry Baptist Church have recognized the providence of God and, for the future, pray to see life from God's perspective; and

WHEREAS, the current Pastor is David Bishop, who is ably assisted by Minister of Music Marcee Lee Mayfield and Chairman of Deacons, Curtis Smith; now therefore,

BE IT RESOLVED BY LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on this momentous occasion, we hereby most highly commend the membership of

Mulberry Baptist Church of Maplesville, Alabama, for their dedicated devotion to God and in service to their fellow man.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to Reverend Bishop for appropriate presentation and display.

Approved April 29, 1998

Time: 11:59 A.M.

Act No. 98-447

H.J.R. 242 – Rep. Gipson

HOUSE JOINT RESOLUTION

COMMENDING EVERETT ELLIS, JR. ON HIS PROFESSIONAL ACHIEVEMENTS.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of Everett Ellis, Jr., of Prattville, Alabama, who retired from the Central Alabama Electric Cooperative after 51 years of exemplary service; and

WHEREAS, in 1943 he joined the United States Navy and served his country with patriotism as a gunner aboard the battleship USS Colorado during World War II, receiving enemy attacks on numerous occasions; and

WHEREAS, Mr. Ellis, who was employed with Central Alabama Electric Cooperative on February 15, 1947, served with tireless devotion as the cooperative's purchasing agent, and has ably reflected the best in a public servant with his unselfish service and progressive attitudes; and

WHEREAS, a devout and dedicated Christian at First Baptist Church in Prattville, Mr. Ellis, more familiarly known as "Jr.," is married to his loving and supportive wife, the former Annie Collier; they are the proud parents of two sons, Everett, III, and Ernest, and have provided a warm and loving home to their family grounded on unconditional love; and

WHEREAS, as a result of his hard work and unwavering commitment, Everett Ellis, Jr., has succeeded in compiling an impressive record of career achievements, and has earned the admiration and respect of those persons who have had the privilege of associating with him; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Everett Ellis is commended on the accomplishments of his career and indeed

brought an unprecedented level of efficiency, professionalism, and experience to his job with Central Alabama Electric Cooperative.

BE IT FURTHER RESOLVED, That a copy of this resolution be provided to Mr. Ellis as an expression of our tribute and esteem and with best wishes for a happy retirement.

Approved April 29, 1998

Time: 12:01 P.M.

Act No. 98-448

H.J.R. 248 – Rep. Crigler

HOUSE JOINT RESOLUTION

RECOGNIZING MAY 1998 AS MOTORCYCLE AWARENESS MONTH IN ALABAMA.

WHEREAS, countless individuals across our state and nation use motorcycle riding for transportation to their jobs or schools, as an economical form of recreation, and while assisting law enforcement officers in the performance of their jobs; and

WHEREAS, it is especially important that the citizens of the State of Alabama be aware of motorcycle safety while riding motorcycles on the streets and highways of our state to develop good driving habits and to understand the importance of wearing proper cycling clothes, such as helmets, gloves, and boots; and

WHEREAS, all motorcycle organizations and dealerships, along with highway law enforcement, are encouraged to join with the Alabama Motorcycle Safety Program and Alliance Bikers Active Toward Education (ABATE) of Alabama, Inc., in actively promoting safety operation, rider training, improved licensing efforts, and motorist awareness of motorcyclists; and

WHEREAS, motor vehicle laws affect the operation of motorcycles as well as automobiles and other kinds of vehicles and, during May 1998, all highway users in the State of Alabama are urged to join in an effort to promote highway safety and demonstrate skill in handling motor vehicles; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition and support of the efforts of the Alabama Motorcycle Safety Program and the Alliance Bikers Active Toward Education of Alabama, we hereby designate May 1998 as Motorcycle Awareness Month in Alabama.

Approved April 29, 1998

Time: 12:02 P.M.

Act No. 98-449

H.J.R. 263 – Rep. Clouse

HOUSE JOINT RESOLUTION

COMMENDING THE NORTHSIDE METHODIST ACADEMY VARSITY BOYS BASKETBALL TEAM ON THE 1997-1998 SEASON.

WHEREAS, it is with great pride and pleasure that we recognize the Dothan, Alabama, Northside Methodist Academy Varsity Boys Basketball Team on its spectacular 1997-1998 season record of 32-12; and

WHEREAS, in the ACEA State Final Four Tournament, the Academy defeated Cornerstone Baptist of Decatur 79-63 in the semifinals, and clinched the tournament final in an exciting double overtime 105-92 victory over IMS of Mobile; and

WHEREAS, under the steady and inspired coaching of Coach Tyrone Johnson, and with the able assistance of Manager David Malphurs, the Academy team completed one of its finest ever seasons; and

WHEREAS, the team consists of David Arute, Taylor Davis, Chris Fain, John Kowalsky, Tim Litchfield, Scott May, Preston McCamy, Urias Riddlesprigger, Kabin Slay, Luke Trawick, and Jason Wright; now therefore

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby heartily commend the Northside Methodist Academy Varsity Boys Basketball Team on its outstanding 1997-1998 season.

Approved April 29, 1998

Time: 12:03 P.M.

Act No. 98-450

H.J.R. 264 – Reps. Carothers, Seibenhener,
Clouse and Baker

HOUSE JOINT RESOLUTION

WELCOMING AYRES AVIATION TO DOTHAN AND TO ALABAMA.

WHEREAS, Fred Ayres, a Dothan native and president and chief executive officer of Ayres Corporation of Albany, Georgia, has announced plans for a new cargo plane assembly plant to be located in Dothan, Alabama; and

WHEREAS, the facility, which will provide some 500 new jobs and an average payroll of some \$12 million a year, will have significant impact upon the area's economy, as well as that of the entire State of Alabama; and

WHEREAS, an added benefit to the growth and well-being of the Dothan-Houston County area will be the creation of possible new service industry businesses and subcompanies to support the plant, and the expansion of established businesses in the Wiregrass, which will create additional jobs and stimulus to the economy; and

WHEREAS, an entrepreneur of the highest magnitude, Fred Ayres was born December 10, 1930, the son of a former Dothan mayor; he graduated from Dothan High School, attended the University of Alabama, and earned a degree in finance from the University of Miami; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That it is with great pleasure that we welcome Ayres Aviation to Dothan and to Alabama, and direct that a copy of this resolution be presented to Mr. Ayres that he may know of our highest personal regard and anticipation of the move to Alabama.

Approved April 29, 1998

Time: 12:04 P.M.

Act No. 98-451

H.J.R. 266 – Reps. McMillan and Penry

HOUSE JOINT RESOLUTION

COMMENDING MR. AND MRS. ALFRED FREDERICK THOMAS ON THE OCCASION OF THEIR 60TH WEDDING ANNIVERSARY.

WHEREAS, on March 19, 1998, Alfred Frederick Thomas and Marjorie Cato Thomas, residents of Robertsedale and lifelong residents of Alabama, will celebrate their 60th Wedding Anniversary; and

WHEREAS, during their married life, Mr. and Mrs. Thomas have lived in Crenshaw, Mobile, and Baldwin counties and have distinguished themselves as valued and respected members of their community because of their dedication to each other and their family of five children, 10 grandchildren, and 11 great grandchildren, epitomizing the ideals of married life and their enduring

union of love as a model and inspiration to those whose lives they have touched; and

WHEREAS, Fred's first job after marriage in 1938 earned him only forty cents a day; his career at a packing company spanned more than 27 years because of his dedication to the work ethic, and Marjorie was a homemaker and devoted mother; and

WHEREAS, in 1944, during World War II, Fred Thomas served his nation with distinction with the United States Armed Forces in France and Germany while Marjorie, caring for their family of three children, worked at a local grocery store, and through her frugal savings, the Thomases were able to buy their home; and

WHEREAS, family life with stability, sacrifices, and vitality and the enduring commitment of trust and devotion is a national treasure and the cornerstone upon which our society stands, and Mr. Thomas states that he would never have chosen another but Marjorie for his lifemate; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Alfred Frederick and Marjorie Cato Thomas be congratulated on this extraordinary occasion of their 60th Wedding Anniversary as well as their exemplary lives and accomplishments during this blessed union, and by copy of this resolution, we convey best wishes for many more years of happiness together.

Approved April 29, 1998

Time: 12:05 P.M.

Act No. 98-452

H.J.R. 310 – Rep. Hooper

HOUSE JOINT RESOLUTION

COMMENDING ROBERT WILES OF BILOXI, MISSISSIPPI, FOR OUTSTANDING HEROISM.

WHEREAS, deserving of highest praise and commendation is Robert Wiles of Biloxi, Mississippi, who, by his quick, decisive, and courageous actions, is credited with helping to save the life of a friend and colleague; and

WHEREAS, Robert Wiles, and his fellow associates, Harry Hoffman, also of Biloxi, and Mark Rhodes of Ocean Springs, Mississippi, all district sales representatives with PYA/Monarch, were traveling from the Mississippi Gulf Coast to Montgomery,

Alabama, during a driving rainstorm to attend the company's monthly sales meeting when the car in which they were riding hit a puddle of water, hydroplaned, and flipped end over end, coming to rest upside down in a seven-foot drainage ditch filled with water; and

WHEREAS, Mr. Wiles and Harry Hoffman managed to escape from the car unscathed; their companion, Mark Rhodes, however, had not been so fortunate, for, becoming disoriented and confused, he had been unable to find his way out of the vehicle; and

WHEREAS, realizing the urgency of the situation, and with only the thought of helping another in need, the two men, reacting swiftly and deliberately, jumped into the dark, murky water and, by their valiant efforts, located their companion and guided him from the car to safety; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly commend Robert Wiles of Biloxi, Mississippi, for his heroic action and concern for his fellow man, and direct that he receive a copy of this resolution as an expression of our admiration and esteem.

Approved April 29, 1998

Time: 12:06 P.M.

Act No. 98-453

H.J.R. 307 – Reps. Allen, Guin, Parker (T),
Melton, Layson and Hayden

HOUSE JOINT RESOLUTION

COMMENDING DAVID CUNNINGHAM FOR OUTSTANDING HEROIC EFFORTS.

WHEREAS, David Cunningham, who is a vocational agribusiness teacher at Brookwood High School and certified emergency medical technician who works part-time with Northstar Ambulance in Pickens County, is deserving of highest honor and commendation for his quick, decisive, and courageous action in coming to the assistance of Frank Rittenberry in a life-threatening situation; and

WHEREAS, Mr. Rittenberry, a substitute teacher at Brookwood High School, recently collapsed during a seventh-grade chorus class and, through the valiant efforts of David Cunningham, who not only had his equipment with him, but also teaches a medical services class at Bevill State Community College, exemplified the highest degree of concern of one human being for another as he headed a team of volunteers; and

WHEREAS, others coming to the aid of Mr. Rittenberry were Charlotte Walker, a school nurse; teachers Jay Crabtree and Jackie Norton; and the Brookwood Volunteer Fire Department, who responded immediately with an automatic external defibrillator, which Mr. Cunningham administered six times to revive Mr. Rittenberry; and

WHEREAS, David Cunningham is indeed deserving of public recognition and commendation for his valiant efforts and fast action in helping to save the life of Mr. Frank Rittenberry; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we hereby most highly praise and commend Mr. Cunningham for outstanding courage, and further direct that he receive a copy of this resolution in token of our sincere admiration for his enviable courage.

Approved April 29, 1998

Time: 12:07 P.M.

Act No. 98-454

H.J.R. 428 – Rep. Holmes

HOUSE JOINT RESOLUTION

COMMENDING HELEN HOLLYFIELD FOR HER OUTSTANDING COMMUNITY SERVICE.

WHEREAS, it is with a sense of great pride and deep admiration that the Alabama Legislature notes the numerous contributions of Helen Hollyfield to the Wetumpka Community and, as a tribute to her exemplary record of community service, she is deserving of special public commendation; and

WHEREAS, a native of Wetumpka, Alabama, Ms. Hollyfield has been employed as a teacher's aide with the Elmore County Adult Education Center for 13 years, and is a faithful and devoted member of Mount Zion Chapel African Methodist Episcopal Zion Church, serving as a worthy role model and treasurer of the Ministry of Kindness program; and

WHEREAS, she also has contributed greatly to the progress of the local community as vice president of the Wetumpka Civitan Club, and reaches out to those in need by caring for the elderly and sick; and

WHEREAS, Ms. Hollyfield is a mother par excellence who was resolutely and tenderly committed to the nurturing of her three children, Paulette, Eric, and Celeste; and derives significant gratification

as a grandmother to Antonio, LaJonathan, RaShad, and Erica; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation is hereby extended to Helen Hollyfield, for whom a copy of this resolution shall be provided with sincere best wishes for continued success in her future endeavors.

Approved April 29, 1998

Time: 12:08 P.M.

Act No. 98-455

H.J.R. 333 – Reps. Haney, Sanderford,
Jorgensen, Hall (L),
Papucci and Hall (A)

HOUSE JOINT RESOLUTION

COMMENDING THE UNIVERSITY OF ALABAMA-HUNTSVILLE AS 1998 NCAA DIVISION II ICE HOCKEY CHAMPIONS.

WHEREAS, highest commendation and congratulations are herein extended to the University of Alabama-Huntsville hockey team on winning the 1998 NCAA Division II Ice Hockey Championship at the VonBraun Center March 13-14, 1998; and

WHEREAS, ranked number one all season long in the NCAA District II Hockey Poll, the UAH Chargers soundly defeated Bemidji State University 6-2 and 5-2, respectively, to once again capture the Championship Title, and finish the season with an impressive 24-3-3 overall record; and

WHEREAS, superbly led by Coach Doug Ross, assisted by A. J. Baker, Lance West, and Mike Quenneville, this outstanding team of young athletes are: Cedrick Billequey, Shane Stewart, Dave Marcelli, Jim Alauria, Tim McAllister, Marc Lalonde, Ryan Gavigan, Joe Provenzane, Darren Awender, Nathan Bowen, Tom Williams, Matt Parker, Paul Schloss, Dwayne Blais, Jay Woodcroft, Mark Motowski, Mike Hamlin, Colin Schmidt, Ryan McCormack, Jamie Baby, Jason Mucciarone, John McCabe, Ryan Stewart, and Steve Briere; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That highest commendation and heartiest congratulations are hereby extended to the University of Alabama-Huntsville Chargers as 1998 NCAA

Division II Ice Hockey Champions, and for the honor they bring to their school, community, and state.

RESOLVED FURTHER, That a copy of this resolution be provided for presentation and display, and as a token of our tribute and esteem.

Approved April 29, 1998

Time: 12:09 P.M.

Act No. 98-456

H.J.R. 459 – Reps. Buskey, Turner, Box,
Clark (W), Crigler, Dean,
Gaston, Kennedy, Mitchell
and Pringle

HOUSE JOINT RESOLUTION

COMMENDING JONATHAN RICHARD DELAFUENTE FOR OUTSTANDING ACHIEVEMENT.

WHEREAS, highest commendation is herein accorded Jonathan Richard DeLaFuente of Eight Mile, Alabama, who has attained the rank of Eagle Scout, scouting's highest honor, and will be recognized and receive his Eagle Scout badge at a Court of Honor on the afternoon of May 24, 1998, at St. Pius X Catholic Church; and

WHEREAS, this coveted rank was earned through countless hours of hard work, diligence and great perseverance to complete the required community projects and to fulfill the other stringent criteria for Eagle Scout status; and

WHEREAS, Jonathan is the 16-year-old son of Richard DeLaFuente and Sharon DeLaFuente, and a Junior at McGill High School, where he has achieved Honor Roll status and Honorable Mention; and

WHEREAS, a member of Troop 36, young Jonathan has indeed exemplified those finest attributes of self-discipline and self-reliance, good citizenship, devotion to duty, and concern for his fellow man, and is especially deserving of this distinguished designation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEROF CONCURRING, That in recognition of outstanding achievement and on his attainment of the rank of Eagle Scout, highest commendation and congratulations are hereby extended to Jonathan Richard DeLaFuente of Eight Mile,

Alabama, a young man of whom we are justly proud and for whom a copy of this resolution shall be provided.

Approved April 29, 1998

Time: 12:11 P.M.

Act No. 98-457

H.J.R. 400 – Reps. Haney, Sanderford,
Hinshaw, Papucci,
Hall (A), Hall (L) and
Jorgensen

HOUSE JOINT RESOLUTION

COMMENDING NANCY CARTER BILLINGS AS RECIPIENT OF THE 1997 TEACHER OF THE YEAR AWARD.

WHEREAS, the American Association of Family and Consumer Sciences and Glencoe McGraw-Hill has selected Nancy Carter Billings as one of the 1997 top ten Family and Consumer Sciences Teachers of the Year for outstanding contributions to family and consumer sciences education in grades kindergarten through twelve; and

WHEREAS, a native of Missouri, Mrs. Billings received an undergraduate degree in vocational home economics from South Missouri State University and a Master's Degree in Education from the University of Missouri; and

WHEREAS, she is an exemplar of a caring and respected teacher who has been entirely devoted to the betterment of her profession for 25 years, attending numerous workshops and seminars at the local, state, national, and international level; and

WHEREAS, as a result of her tireless hard work and deep commitment to education, Mrs. Billings received the prestigious 1994 State Teacher of the Year Award sponsored by the Alabama Vocational Association and, during 1995, received resolutions from both the Alabama Senate and House of Representatives for her outstanding community contributions and excellent accomplishments in the field of education; and

WHEREAS, in sincere admiration of her many notable accomplishments as a distinguished educator, countless young people have been inspired, encouraged, and touched by the care and concern shown by Mrs. Billings, and they will carry with them throughout their lives the experiences they have gained under her tutelage; therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mrs. Nancy

Carter Billings is hereby most highly commended as recipient of the 1997 Family and Consumer Sciences Teacher of the Year Award and, it is further directed that she receive a copy of this resolution of sincere admiration and esteem.

Approved April 29, 1998

Time: 12:12 P.M.

Act No. 98-458

H.J.R. 308 – Reps. Allen, Guin, Parker (T),
Melton, Layson and Hayden

HOUSE JOINT RESOLUTION

COMMENDING LINDA BEVING UPON HER SELECTION
AS ALABAMA SCHOLASTIC PRESS ASSOCIATION ADMINIS-
TRATOR OF THE YEAR.

WHEREAS, highest commendation is hereby accorded Central High School-East Principal Linda Beving upon her selection as Alabama Scholastic Press Association Administrator of the Year, her second time to receive this prestigious award; and

WHEREAS, after earning a double degree in library science and elementary education, Mrs. Beving taught second grade at Hard Elementary School, was praised for her exemplary leadership as a librarian in elementary, middle, and high schools for 14 years, and as an assistant principal in Shelby County for five years; and

WHEREAS, a staunch advocate for children and education, Mrs. Beving has been an educator for 22 years, including two years at Central High School-East, and with her innovative programs and enthusiasm for implementing them, schools and parents have enlisted her help and encouragement as they attempt to emulate her style; and

WHEREAS, a loving wife to her husband, who has offered her support and encouragement, and proud mother of two daughters, ages 8 and 21, Linda Beving has, over her dedicated tenure, indeed had a significant impact on the lives and accomplishments of her many students and served as a worthy role model for all educational professionals in the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Mrs. Beving is commended upon her selection as Alabama Scholastic Press Association Administrator of the Year, and applauded for the inspiration and guidance that she has provided to her many students and,

by copy of this resolution, extended sincere best wishes for every success in the future.

Approved April 29, 1998

Time: 12:13 P.M.

Act No. 98-459

H.J.R. 435 – Reps. Kennedy, Buskey,
Clark (W) and Mitchell

HOUSE JOINT RESOLUTION

**MOURNING THE DEATH OF TAYLOR HURON HODGE,
SR., OF MOBILE, ALABAMA.**

WHEREAS, recorded with deepest sorrow and regret is the death of Taylor Huron Hodge, Sr., of Mobile, Alabama, on April 5, 1998; and

WHEREAS, a native of Walker County, Alabama, a former resident of Birmingham, and a longtime and prominent member of the Mobile community, Taylor Huron Hodge distinguished himself as an outstanding business and civic leader, and an outstanding Alabamian; and

WHEREAS, over his career, he was a member of numerous professional organizations including the Alabama Funeral Directors and Morticians Association, National Funeral Directors and Morticians Association, and was the first Black to be appointed by the Governor to the Alabama Funeral Directors Board in Montgomery; among other distinctions, he was instrumental in the establishment of the Mortuary Science Department at S. D. Bishop State Community College and was the first Black to serve on the advisory boards of Providence Hospital and the Mobile City Auditorium, and the Governor's Advisory Board of the Strategic Air Command for the Alabama National Guard; and

WHEREAS, Mr. Hodge was also a 33rd Degree Mason, a member of the Mobile Area Chamber of Commerce and Phillips Temple A.O.H. Church, where he was chairman of the church extension board; and served as Good-Will Ambassador to the City of Prichard; and

WHEREAS, in tribute to his achievements, Mr. Hodge was honored as Outstanding Mobilian of the Year, and Man of the Year by the SCLC and AFDMA; and

WHEREAS, a man of insight and vision, Mr. Hodge was general manager for Smith & Gaston Funeral Homes, statewide, later to become Hodge's Funeral Chapel, and founded Whispering Pines

Cemetery; he also was instrumental in the development and success of Booker T. Washington Insurance Company; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That grievously mourned is the death of Taylor Huron Hodge, Sr., of Mobile, Alabama, and, by copy of this resolution, deepest heartfelt sympathy is hereby extended to his loving wife, Phoebe Kelley Hodge; daughter, Sharon (Virgil) Sanders; sons, Taylor Huron (Ethel) Hodge, Jr., and Ryan Pierre (Kathie) Hodge; three grandchildren and two great-grandchildren; and a host of other close family members and friends, whose sorrow we sincerely share.

Approved April 29, 1998

Time: 12:10 P.M.

Act No. 98-460

S.J.R. 127 – Senator Hill

SENATE JOINT RESOLUTION

COMMENDING THE ALABAMA SCHOOL FOR THE DEAF SILENT WARRIORS AND LADY WARRIORS ON THEIR OUTSTANDING ATHLETIC ACHIEVEMENTS.

WHEREAS, the Alabama School for the Deaf (ASD) Silent Warriors and Lady Warriors have not only had winning seasons, but have set spectacular school records and, in recognition thereof, the team members, the members of the coaching staffs, and all of those individuals associated with the teams are deserving of special public commendation; and

WHEREAS, the unparalleled success of the team is the result of not only the devotion and hard work of the members themselves, but also the exemplary leadership provided by Head Coach Don Hackney, who was named Anniston Star Area Coach of the Year, Talladega County Coach of the Year, and the Alabama Sports Writers' Association 1A Coach of the year, and Coaches Bert Haynes and Jimmy Peterson; and

WHEREAS, in their determination to develop the fullest potential of the players, and to prove that disabilities do not prove greater than the ability of the spirit of the individual, Lady Warrior Head Coach Kay Hill, who was named National Girls Coach of the Year, along with Coach Bill Estes, devoted countless hours to training the members and emphasizing discipline and good sportsmanship; and

WHEREAS, the outstanding ASD Silent Warriors have won nine Mason-Dixon titles, including five consecutive wins, and six National Schools for the Deaf Championships, while the ASD Lady

Warriors won six Mason-Dixon titles, including three consecutive wins and six National Schools for the Deaf Championships; and

WHEREAS, overcoming strong competition, the ASD Silent Warriors won the 1A Area 11 Tournament and showcased their exceptional skills twice during the Final Four State Playoffs; the Lady Warriors also won the 1A Area 11 Tournament, and made it to the "Sweet Sixteen" State Regional Playoffs three times; and

WHEREAS, during their season of excellence Silent Warrior Henry Dorsey won numerous prestigious awards including The Anniston Star Player of the Year, Alabama Sports Writers' Association 1A Player of the Year, 1A First Team All State Player, and The Silent News National Deaf Player of the Year; and

WHEREAS, other notable accomplishments include Silent Warriors Henry Dorsey, Cedrick White, and Allen Salter, who won Boys' All-American First Team, and team member, Yule Brooks, who made Boys' All-American Second Team; and

WHEREAS, Kim Loggins, an amazing Lady Silent Warrior, was selected as The Anniston Star Player of the Year, First Team All Area, and The Silent News National Deaf Player of the Year; she also is a member of the Girls' All-American First Team; and

WHEREAS, the people of Talladega County can be proud of athletic competitors the caliber of the ASD Silent Warriors and Lady Warriors Basketball Teams, who so admirably represent them in sporting events, and who possess the skill and determination to succeed in their efforts; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the Alabama School for the Deaf Silent Warriors and Lady Warriors Teams are congratulated on their outstanding athletic accomplishments and, by copies of this resolution to Head Coaches Don Hackney and Kay Hill, commended for the exemplary manner in which they have represented their school and the Talladega Community.

Approved April 29, 1998

Time: 12:15 P.M.

Act No. 98-461

S.J.R. 128 – Senator Dixon

SENATE JOINT RESOLUTION

JOHN B. "JOHNNY" JOHNSON REMEMBERED.

WHEREAS, SJR 209, Act No. 1988-565, was passed in May 1988 wherein the language "The Alabama Legislature.....grievously

records the sudden, untimely death of our good friend, John B. "Johnny" Johnson of Montgomery, Alabama, who died April 26, 1988..." was read by Senator Ryan deGraffenried to a hushed Senate Chamber; and

WHEREAS, Johnny Johnson's many friends in the Alabama Legislature now take notice of the tenth Anniversary of Mr. Johnson's fatal accident; and

WHEREAS, His smiling face, friendly demeanor, constant willingness to help his friends, guide his colleagues and lend his boundless energy to projects designed to benefit his church and community are sorely missed; and

WHEREAS, It is with a continuing sense of grief and loss that Johnny Johnson's friends in State Government once again bring forward the memory of his many contributions to the State of Alabama and note his outstanding character, the continuing void in the legislative halls and the void in the life of his friends; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we are still saddened by the death of John B. "Johnny" Johnson and direct that copies of this resolution be forwarded to his wife, Karen Britton Johnson, to his son, Lewis Johnson, and to the Petroleum Council of Alabama.

Approved April 29, 1998

Time: 12:16 P.M.

Act No. 98-462

S. J. R. 129 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING JIM CROOK AS 1999 GOVERNOR-ELECT OF THE ALABAMA YMCA YOUTH LEGISLATURE.

WHEREAS, noted with highest commendation is the election of Jim Crook as 1999 Governor-elect of the Alabama YMCA Youth Legislature; and

WHEREAS, Jim, son of Charlie and Edith Crook, is an exceptionally bright and talented junior at Montgomery Academy, who excels in debating, including the Youth Judicial Team, which placed in the top 10 for the past two years; and

WHEREAS, he is involved in countless school activities, including president of his sophomore class, and is an active participant in

Government and Seinfeld Clubs, and the adopt-a-mile program; and

WHEREAS, Jim, who represents excellence in education and the promise of young people, is motivated by the love of the outdoors and enjoys spending his leisure time skiing, hunting, and traveling; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of exceptional achievement, and upon his election as 1999 Governor-elect of the Alabama YMCA Youth Legislature, highest commendation is hereby bestowed upon Jim Crook, for whom a copy of this resolution of sincere praise is provided

Approved April 29, 1998

Time: 12:17 P.M.

Act No. 98-463

S.J.R. 132 – Senator Armistead

SENATE JOINT RESOLUTION

COMMENDING ELAINE D. LITTLE AS RECIPIENT OF THE 1997 OLIVE SPANN EAGLE AWARD.

WHEREAS, it is with sincere praise and highest commendation that the Alabama Legislature records that Elaine D. Little of Pelham, Alabama, is the recipient of the 1997 Olive Spann Eagle Award given to the person who demonstrates the sterling ethics of the Judeo Christian values and dedicates extraordinary service to family and community; and

WHEREAS, Elaine D. Little has received numerous awards and recognition, including membership in the American Management Association, for her business acumen and genius for detail for over 34 years, and she managed work forces with up to 240 employees and operated budgets of approximately \$15,000,000; and

WHEREAS, she has served the Republican party at local and state levels in capacities from campaign worker, chair of personnel committee, to chair of the Shelby County Republican Party and Secretary of the Mid-Alabama Republican Club; and

WHEREAS, Elaine has exhibited her loving and caring concern for citizens in all walks of life as evidenced by her participation in numerous civic and charitable activities, including member

of the Alabama Statewide Health Coordinating Council, Board of Directors of Pelham Library, Telephone Pioneers of America, and the Briarwood Presbyterian Church in Birmingham, Alabama; and

WHEREAS, Elaine D. Little has given tirelessly of her energies, time, and talents serving as Field Director, Newsletter Editor, and, from 1996 to 1997, as Assistant to the President of Eagle Forum, a nonprofit organization of volunteers committed to the promotion of family values and constitutional rights of the citizens of Alabama and the citizens of our great nation; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That we do most heartily commend Elaine D. Little, the 1997 recipient of the prestigious Olive Spann Eagle Award, on her outstanding achievements and her commitment for the betterment of her fellow men and women, and by copy of this resolution we send our best wishes in all future endeavors.

Approved April 29, 1998

Time: 12:18 P.M.

Act No. 98-464

S.J.R. 133 – Senator Poole

SENATE JOINT RESOLUTION

COMMENDING THE PICKENS ACADEMY PIRATES ON THEIR FOURTH CONSECUTIVE ALABAMA INDEPENDENT SCHOOL STATE POWERLIFTING CHAMPIONSHIP.

WHEREAS, it is with heartiest congratulations that the Alabama Legislature commends the Pickens Academy (PA) Pirates on their fourth consecutive Alabama Independent School State Powerlifting Championship on March 9, 1998, at Fort Dale Academy in Greenville, Alabama; and

WHEREAS, under the able leadership of Coach Lane Wright, and in an outstanding team effort and will-to-win spirit, the skilled PA Pirates, with 41 lifters competing in 19 different weight classes ranging from the 81-pound class to the super heavyweight class, placed in 14 of 19 weight classes, earning four first, six second, one third, and six fourth place finishes to capture their fourth straight 2A and overall state powerlifting trophy; and

WHEREAS, first place finishers were: Will Nance (98 lb class), Jody Wright (165 lb class), Chad Elliot (198 lb class), and James Keating (205 lb class); second place finishers were: Forrest Boutwell (super heavyweight class), Bill Fason (232 lb class), Kelly

Puckett (181 lb class), Adam Lee (123 lb class), Chris Simms (105 lb class), and Brandon Simms (81 lb class); third place finisher was Steven Brownlee (132 lb class); fourth place finishers were: Eric Brewer (258 lb class), Clark King (181 lb class), Luther Pippen (175 lb class), Michael Mayfield (198 lb class), Justin Owens (148 lb class), and Jason Coshatt (123 lb class); and

WHEREAS, PA lifters also set eight state records including Chad Elliot, who was named best squat lifter and best overall lifter for all classes from the 181 lb class to the super heavyweight class, in the 198 lb class for squat lift (490 lbs), total lift (1290 lbs), and dead lift (525 lbs); James Keating in the 205 lb class for squat lift (460 lbs) and total lift (1235 lbs); Bill Fason set the state standard in the 232 lb class for squat lift (460 lbs); and Forrest Boutwell established state records with a 505 lb squat and a 535 lb dead lift; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of outstanding achievement, we hereby most highly commend Coach Lane Wright and the Pickens Academy Pirates on their fourth consecutive AISA State Powerlifting Championship, and do further direct that a copy of this resolution be forwarded to the school for appropriate presentation and school display.

Approved April 29, 1998

Time: 12:19 P.M.

Act No. 98-465

S.J.R. 134 – Senators Dixon, and Barron

SENATE JOINT RESOLUTION

COMMENDING DR. ELLANN MCCRORY FOR HER OUTSTANDING SERVICE TO THE STATE OF ALABAMA.

WHEREAS, it is with utmost pride and warmest personal pleasure that Dr. Ellann McCrory is recognized following a long and rewarding career in the field of radiology, and for her outstanding and continuing service to the State of Alabama; and

WHEREAS, a native of Butler Springs, Alabama, and a resident of Fort Payne, Alabama, Dr. McCrory received her B.S. Degree from the University of Alabama, M.D. Degree from the Medical College of Alabama, and obtained certification in radiology from both Alabama and Florida; and

WHEREAS, following the practice of radiology as an instructor at J. Hillis Miller Health Center at the University of Florida, and private practice in Andalusia and Langdale, Alabama, Dr. McCrory began her practice in Fort Payne in 1975, where she consistently

provided quality medical care for her patients, ministering to those in need of care with sympathy, love, and concern until her leave of absence three years ago; and

WHEREAS, in addition to serving as vice president of The Medical Association of the State of Alabama in 1986, she served her profession well as a member of the American College of Radiology, Radiological Society of North America, American Roentgen Ray Society, American Association of Women Radiologists, the Society of Nuclear Medicine and The American Institute of Ultrasound in Medicine, among others; and

WHEREAS, as the recipient of numerous prestigious awards and honors, Dr. McCrory was listed in Who's Who in the South and Southwest, Who's Who in American Women, and Who's Who in the World, as well as being chosen by her colleagues as a delegate to the Medical Association of the State of Alabama's House of Delegates for 20 years; and

WHEREAS, Dr. McCrory, with a unique combination of talent and knowledge that has made her a tremendous asset in the field of radiology, has contributed extensively to the State of Alabama and especially to our friend and colleague Senator Larry Dixon, to whom she often offers advice and assistance; and

WHEREAS, She has further served the State as a ten year member of the Alabama Board of Medical Examiners, including five years as chairman of the Credentials Committee causing her to devote in excess of 35 work days per year to the people of the state; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That in recognition of her outstanding contributions to the State of Alabama, highest commendation is hereby accorded Dr. Ellann McCrory, for whom a copy of this resolution of sincere tribute and esteem shall be provided.

Approved April 29, 1998

Time: 12:20 P.M.

Act No. 98-466

S.J.R. 135 – Senator Dixon

SENATE JOINT RESOLUTION

COMMENDING SARA BOPP STRANGE, FINALIST IN THE EIGHTH ANNUAL "THE AMERICAN TEACHER AWARDS."

WHEREAS, the Alabama Legislature, in recognizing Alabamians of extraordinary achievement, most highly commends Sara Bopp

Strange as a finalist in the eighth annual "The American Teacher Awards," sponsored by the Walt Disney Company; and

WHEREAS, a native of Brewton, Alabama, now residing in Montgomery, Ms. Strange received her B. S. Degree from Auburn University in Art Education, and M. Ed Degree from Auburn University of Montgomery; and

WHEREAS, she has brought professionalism, esteem, and respect to the educational field as the Visual Arts Department Head and Visual Arts Instructor of the Booker T. Washington Magnet High School (BTW) which places special emphasis on the fine arts and allows opportunities to explore other creative art areas; and

WHEREAS, her participation also is valuable and noteworthy as the President for the Alabama Art Education Association, she serves on the National Committee for Art Advocacy, and is associated with the International Network of Performing and Visual Arts Schools; and

WHEREAS, in sincere admiration of her many notable accomplishments as an outstanding educator and school administrator, Ms. Strange is recognized for her invaluable educational contributions to the State of Alabama; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Sara Bopp Strange is hereby most highly commended and congratulated as a finalist in the eighth annual "The American Teacher Awards," sponsored by The Walt Disney Company, and further direct that she receive a copy of this resolution with best wishes for continued success in the future.

Approved April 29, 1998

Time: 12:21 P.M.

Act No. 98-467

S. 607 – Senator Butler

AN ACT

To provide a civil remedy for the abatement of obscene nuisances; to make legislative findings; to define certain terms; to require notice to owners of property where obscene nuisances occur; to grant jurisdiction to circuit courts to hear obscene nuisance cases; to provide standing to certain officials who may institute obscene nuisance proceedings; to provide for hearings on preliminary injunctions; to provide for civil penalties; to provide for security bonds and limitations thereof; to prohibit punitive damages; to provide for punishment for contempt and for violations of court orders; to provide for cancellation of court orders and circumstances therefor; to provide that material not otherwise obscene may be obscene if it is

offered for prurient appeal; to increase penalties for habitual offenders of the obscenity laws; to prohibit the employment of minors in establishments that sell or display material of a sexual nature that is intended only for adult entertainment; to provide an exemption for the employment of minors in establishments that sell or rent video cassettes or films; to require that the material which depicts a sexual act be placed in a certain location; to require special licensing of establishments that operate certain adult-related businesses; to provide penalties; and for these purposes to amend Sections 13A-12-200.1, 13A-12-200.2, 13A-12-200.3, and 13A-12-200.5 of the Code of Alabama 1975, and to add Section 13A-12-200.11 and 13A-12-200.12 to the Code of Alabama 1975.

Be It Enacted by the Legislature of Alabama:

Section 1. The Legislature of Alabama finds and declares:

(1) That in order to protect children from exposure to obscenity, prevent assaults on the sensibilities of unwilling adults by the purveyor of obscene material, and suppress the proliferation of "adult-only video stores," "adult bookstores," "adult movie houses," and "adult-only entertainment," the sale and dissemination of obscene material should be regulated without impinging on the First Amendment rights of free speech by erecting barriers to the open display of erotic and lascivious material.

(2) That the premises in which a violation of Division 5, Chapter 12, Title 13A of the Code of Alabama 1975, occurs should be declared a public nuisance.

Section 2. It is hereby declared that the use of any premise to distribute obscene material to minors in violation of Division 5 (commencing with Section 13A-12-200.1), Chapter 12, Title 13A of the Code of Alabama 1975, is a public nuisance and the Attorney General, district attorney, or, when authorized by the local governing body, the attorney for the county or municipality may file an action in the circuit courts of this state to abate, enjoin, and prevent the nuisance. A county, by resolution, or a municipality, by ordinance, may authorize the filing of an action in the circuit court within their jurisdiction to abate, enjoin, and prevent the nuisance. The actions shall be commenced by the filing of a complaint alleging the facts constituting the nuisance in circuit court of the county in which the nuisance is situated.

Section 3. No security bond shall be required to issue a preliminary injunction or temporary restraining order sought by the Attorney General, district attorney, or an attorney appearing for the county or municipality. At the discretion of the court, a security bond may be required to issue a preliminary injunction or temporary restraining order. Where relief is issued after an evidentiary hearing at which witnesses are subject to cross examination, the court may not require a security bond in excess of one thousand dollars (\$1,000).

Section 4. (a) A plaintiff is required by a preponderance of the evidence to establish that a nuisance exists. The plaintiff is required by clear and convincing evidence to establish that the owner of the property who is not a resident or in actual possession of the property was criminally culpable in aiding and abetting the nuisance.

(b) If the existence of a nuisance is found, the judgment may include actual damages and an injunction to restrain, abate, and prevent the continuance or recurrence of the nuisance. The court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction or order and enforce the judgment or order.

(c) The court may retain jurisdiction of the case for the purpose of enforcing its orders.

(d) If a nuisance is found, the court shall have additional power to fashion any one or more of the following remedies:

(1) Assess damages against the defendant in favor of each plaintiff of not less than three hundred dollars (\$300) nor more than ten thousand dollars (\$10,000).

(2) Assess costs of the action against the defendant.

(3) Assess reasonable attorney's fees from the time of the filing of the complaint, payable to a private attorney filing the complaint or to the municipal, county, or state agency by which the prosecuting attorney is employed.

(4) When a government agency is a plaintiff in the action, assess a fine against the defendant of not less than five hundred dollars (\$500) nor more than twenty thousand dollars (\$20,000), in addition to attorney's fees. All fines shall be paid into the general fund of the county if the plaintiff is the county governing body or a county government agency.

(5) Suspend or revoke any business, housing, or operational license.

Section 5. (a) A violation of any court order issued pursuant to this act is punishable as a contempt of court by a fine of not less than five hundred dollars (\$500) nor more than thirty thousand dollars (\$30,000), or by imprisonment for not more than one year, or both. At least one-half of all fines collected as punishment for contempt shall be paid into the general fund of the county if the action against the defendant was commenced by the county governing body or a county government agency. Evidence concerning the duration and repetitive nature of the violations shall be considered by the court in determining the penalty for contempt.

(b) Upon finding that a defendant has willfully violated an order issued pursuant to this act, the court may issue any additional orders necessary to abate the nuisance or to carry out the punishment for contempt.

(c) The court may suspend the effectiveness of an order of abatement for no more than 90 days if the owner of the property establishes that he or she had no knowledge of the nuisance, and could not reasonably be expected to have knowledge, and the owner avers under oath that he or she will immediately undertake specified measures to abate the nuisance for the following two-year period. An abatement order issued pursuant to this subsection may not be issued for the benefit of a defendant who has been found in contempt of court as part of the same action. An order issued pursuant to this subsection is a suspension and is not a withdrawal of the original order.

(d) The courts shall cancel the order of abatement if the owner of the property satisfies the court that the nuisance has been abated for the past 90 days, and posts a bond in an amount to be determined by the court, which shall be immediately forfeitable if the nuisance recurs during the following two-year period.

Section 6. Sections 13A-12-200.1, 13A-12-200.2, 13A-12-200.3, and 13A-12-200.5, Code of Alabama 1975, are amended to read as follows:

“§13A-12-200.1.

“As used in this division, the following terms shall have the meanings respectively ascribed to them by this section:

“(1) **ADULT BOOKSTORES and ADULT VIDEO STORES.** A commercial establishment in which is offered for sale or rent any book, video, film, or other medium which in the aggregate constitute substantially all of its stock or inventory which depicts sexual conduct as defined herein.

“(2) **ADULT MOVIE HOUSE.** A place where obscene “adult films” depicting sexual conduct are shown.

“(3) **ADULT-ONLY ENTERTAINMENT.** Any commercial establishment or private club where entertainers, employees, dancers, or waiters appear nude or semi-nude.

“(4) **BREAST NUDITY.** The showing of the post-pubertal human female breasts below a point immediately above the top of the areola.

“(5) **DISPLAY FOR SALE.** To expose, place, exhibit, show, or in any fashion display any material for the purpose of the sale of

such material to any person in a manner that a minor can physically examine or see the material.

“(6) DISSEMINATE PUBLICLY. To expose, place, perform, exhibit, show or in any fashion display, in any location, public or private, any material in a manner that the material can either be readily seen and its content or character distinguished by normal unaided vision or be physically examined, by viewing or examining the material from any public place or any place to which members of the general public are invited.

“(7) DISTRIBUTE. To import, export, sell, rent, lend, transfer possession of or title to, display, exhibit, show, present, provide, broadcast, transmit, retransmit, communicate by telephone, play, orally communicate or perform.

“(8) EXPORT. To send or cause to be sent outside of the State of Alabama from inside the state.

“(9) FOR ANY THING OF PECUNIARY VALUE. In exchange for, in return for, or for any consideration consisting of, whether wholly or partly:

“a. Any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible; or

“b. Any offer or agreement to pay, furnish or provide any money, negotiable instrument, debt, credit, chose in action, interest in wealth, or any other property whether real or personal, tangible or intangible.

“(10) GENITAL NUDITY. The showing of the human male or female genitals or pubic area.

“(11) HARMFUL TO MINORS. The term means:

“a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest of minors; and

“b. The material depicts or describes sexual conduct, breast nudity or genital nudity, in a way which is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and

“c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value for minors.

“(12) IMPORT. To bring or cause to be brought into the State of Alabama from outside of the state.

“(13) **KNOWINGLY.** The term means knowingly, as defined by Section 13A-2-2(2), doing an act involving a material when the person knows the nature of the material.

“(14) **KNOWS THE NATURE OF THE MATERIAL.** A person knows the nature of the material when any one of the following exists:

“a. The person knows the nature of the material;

“b. The person has reason to know the nature of the material;

“c. The person has a belief or reasonable ground for belief as to the nature of the material which warrants further inspection or inquiry of the character and content of the material.

“(15) **MATERIAL.** Any book, magazine, newspaper, printed or written matter, writing, description, picture, drawing, animation, photograph, motion picture, film, video tape, pictorial representation, depiction, image, electrical or electronic reproduction, broadcast, transmission, telephone communication, sound recording, article, device, equipment, matter, oral communication, live performance, or dance.

“(16) **MINOR.** Any unmarried person under the age of 18 years.

“(17) **OBSCENE.** The term means that:

“a. The average person, applying contemporary community standards, would find that the material, taken as a whole, appeals to the prurient interest; and

“b. The material depicts or describes, in a patently offensive way, sexual conduct, actual or simulated, normal or perverted; and

“c. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political or scientific value.

“(18) **PERSON.** Any individual and, except where inappropriate, any partnership, firm, association, corporation or other legal entity.

“(19) **PRODUCE.** Create, make, write, film, produce, reproduce, direct, or stage.

“(20) **RECKLESSLY.** The term means recklessly, as defined by Section 13A-2-2(3), doing an act involving a material when the person knows the nature of the material.

“(21) **SADO-MASOCHISTIC ABUSE.** The term means:

“a. Flagellation or torture, in an act of sexual stimulation, by or upon a person who is nude or clad in undergarments or in a revealing or bizarre costume; or

"b. The binding or physical restraining of a person who is nude or clad in undergarments or in a revealing or bizarre costume in an act of sexual stimulation.

"(22) SEXUAL CONDUCT. The term means:

"a. Any act of sexual intercourse, masturbation, urination, defecation, lewd exhibition of the genitals, sado-masochistic abuse, bestiality, or the fondling of the sex organs of animals; or

"b. Any other physical contact with a person's unclothed genitals, pubic area, buttocks, or the breast or breasts of a female, whether alone or between members of the same or opposite sex or between a human and an animal, in an act of sexual stimulation, gratification or perversion.

"(23) SEXUAL INTERCOURSE. Intercourse, whether genital-genital, oral-genital, anal-genital, or oral-anal, and whether between persons of the same or opposite sex or between a human and an animal.

"(24) WHOLESALER. A person who distributes material for the purpose of resale or commercial distribution at retail."

"§13A-12-200.2.

"(a) (1) It shall be unlawful for any person to knowingly distribute, possess with intent to distribute, or offer or agree to distribute any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of prurient appeal. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars (\$10,000) and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than one year. A second or subsequent violation of this subdivision is a Class C felony if the second or subsequent violation occurs after a conviction has been obtained for a previous violation. Upon a second violation, a corporation or business entity shall be fined not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000).

"(2) It shall be unlawful for any person, being a wholesaler, to knowingly distribute, possess with intent to distribute, or offer or agree to distribute, for the purpose of resale or commercial distribution at retail, any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital

organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of their prurient appeal. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than twenty thousand dollars (\$20,000) and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than one year. A second or subsequent violation of this subdivision is a Class C felony if the second or subsequent violation occurs after a conviction has been obtained for a previous violation. Upon a second violation, a corporation or business entity shall be fined not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000).

“(3) It shall be unlawful for any person to knowingly produce, or offer or agree to produce, any obscene material or any device designed or marketed as useful primarily for the stimulation of human genital organs for any thing of pecuniary value. Material not otherwise obscene may be obscene under this section if the distribution of the material, the offer to do so, or the possession with the intent to do so is a commercial exploitation of erotica solely for the sake of prurient appeal. Any person who violates this subsection shall be guilty of a Class C felony.

“(4) If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the comptroller to the General Fund of the county where the person is held for the operation of the county jail.”

“§13A-12-200.3.

“It shall be unlawful for any person to knowingly procure or write advertisement for obscene material or disseminate publicly any obscene material. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars (\$10,000) and may also be imprisoned in the county jail for not more than one year.

If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the comptroller to the General Fund of the county where the person is held for the operation of the county jail.”

“§13A-12-200.5.

“(1) It shall be unlawful for any person to knowingly or recklessly distribute to a minor, possess with intent to distribute to a

minor, or offer or agree to distribute to a minor any material which is harmful to minors. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars (\$10,000) and may also be imprisoned in the county jail for not more than one year.

“(2)a. It shall be unlawful for any person to openly and knowingly display for sale at any business establishment frequented by minors, or any other place where minors are or may be invited as part of the general public, any material which is harmful to minors or to hire or employ a minor in an establishment that displays or disseminates material containing nudity or sexual conduct; provided, however, that a person shall not be deemed to have violated the provisions of this subsection, relating to display for sale, by displaying material harmful to minors in sealed wrappers or behind opaque covers commonly known as “blinder racks” so that in either event the material is located at a height of not less than five and one-half feet from the floor, the lower two-thirds of the material is concealed from view, the content of such material is not available for inspection by minors, and other reasonable efforts are made to prevent minors from perusing the material. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars (\$10,000) and may also be imprisoned in the county jail for not more than one year. Any person who hires or employs a person in violation of this subsection is guilty of a Class C felony and, upon conviction, shall be fined not less than ten thousand dollars (\$10,000) nor more than fifty thousand dollars (\$50,000).

“b. This section shall not be applicable to employment of minors in establishments that sell or rent video cassettes or films that contain nudity or sexual acts if the cover of the video cassettes or films does not contain a depiction of nudity or sexual acts and the video cassettes or films are displayed in a form that cannot be viewed without electrical or mechanical equipment and the equipment is not being used to produce a visual depiction of the material contained in the video cassette or film.

“(3) The following shall be affirmative defenses to a charge of violating this section as it may relate to a particular minor:

“a. The minor exhibited to the defendant, his agent or employee a draft card, driver's license, birth certificate, marriage license or other governmental document purporting to show that such minor was not an unmarried person under the age of 18 years and the person to whom the document was exhibited did not otherwise have reasonable cause to believe that the minor was an unmarried person under the age of 18.

“b. A parent or legal guardian accompanied the minor or consented to the act charged.

“c. The defendant is the parent or legal guardian of the minor.

“d. The act charged was done for a bona fide medical, scientific, educational, legislative, judicial or law enforcement purpose.

“(4) It shall be unlawful for any person to operate an adult bookstore, adult movie house, adult video store, or other form of adult-only enterprise within 1,000 feet of a church, place of worship, church bookstore, public park, public housing project, day-care center, public or private school, college, recreation center, skating rink, video arcade, public swimming pool, private residence, or any other place frequented by minors. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than ten thousand dollars (\$10,000) and may also be imprisoned in the county jail for not more than one year.

“(5) This subsection shall not be applicable to any video rental store that does not engage predominantly in and whose principle business is not the sale or rental of adult material, if the material is maintained in compliance with Section 13A-12-200.5(2), or is located in an area that is restricted to adults.

“(6) If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the comptroller to the General Fund of the county where the person is held for the operation of the county jail.”

Section 7. Section 13A-12-200.11 is added to the Code of Alabama 1975, to read as follows:

§13A-12-200.11.

It shall be unlawful for any business establishment or any private club to show or allow to be shown for entertainment purposes the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state. A violation of this section shall be a Class C felony.

If a person is held under this section in the county jail, one-half of any fines collected and due to be deposited to the State General Fund for violations of this section shall be paid by the comptroller to the General Fund of the county where the person is held for the operation of the county jail.

Section 8. Section 13A-12-200.12 is added to the Code of Alabama 1975, to read as follows:

(a) Any business establishment that operates as an "adult bookstore," "adult-movie house," "adult-video store," or other form of adult-only entertainment enterprise shall obtain in addition to any licenses required by existing law a special operating license, except that a video rental store that does not engage predominantly in and whose principle business is not the sale or rental of adult material, if it is maintained in compliance with Section 13A-12-200.5(2) or is located in an area restricted to adults. Persons who apply for the license shall provide on the application detailed information concerning ownership and financing, and pay an investigation fee of five hundred dollars (\$500) to the county or municipality wherein the business establishment will be located.

(b) If granted the license, the local government, in its discretion, may restrict the type of advertisement that the business establishment can display outside the establishment.

(c) The license shall be revoked if the business establishment is convicted of violating this division.

Section 9. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 29, 1998

Time: 5:15 P.M.

Act No. 98-468

S. 74 – Senators Smith, Bedford,
Armistead, Amari,
Lipscomb, and Denton

AN ACT

To amend Sections 40-18-27 and 40-18-73 of the Code of Alabama 1975, to increase the minimum individual state income tax filing thresholds; to establish a more accurate and quantifiable measure entitled "adjusted gross income" for administering the change in the filing requirement; to provide that upon certification by an employee to an employer that the employee incurred no liability for income tax for the preceding taxable year and anticipates that no liability will be incurred during the current year, the employer will not be required to deduct and withhold any tax upon payment of wages to that employee; and to provide for rules and regulations for the administration of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 40-18-27 and 40-18-73, Code of Alabama 1975, are amended to read as follows:

“§40-18-27.

“(a) Effective for tax years beginning January 1, 1998, and thereafter, every taxpayer having an adjusted gross income for a taxable year of more than one thousand eight hundred seventy-five dollars (\$1,875) if single or if married and not living with husband or wife, and of more than three thousand seven hundred fifty dollars (\$3,750) if married and living with husband or wife shall each year file with the Department of Revenue a return stating specifically the items of gross income, the deductions and credits allowed by this chapter, and their place of residence and post office address. If a husband and wife living together have an adjusted gross income of more than three thousand seven hundred fifty dollars (\$3,750) each shall file a return unless the income of each is included in a single joint return. If the taxpayer is unable to file a return, the return shall be filed by a duly authorized agent or by the guardian or other person charged with the care of the person or property of the taxpayer.

“(b) A taxpayer other than a resident shall not be entitled to the deductions authorized by Section 40-18-15 unless the taxpayer makes a complete return showing the gross income of the taxpayer both from within and outside the state. Every income tax return shall show in the space provided, the name and address of the person who prepared the return. The taxpayer shall be held liable for any statement made by an agent of the taxpayer with reference to any information required by law to be furnished in connection with that tax return.

“(c) Returns made on the basis of the calendar year shall be made on or before April 15 following the close of the calendar year. Returns made on the basis of a fiscal year shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year. The department may grant a reasonable extension of time for filing returns, under rules and regulations which it shall prescribe. Except in the case of taxpayers who are abroad, no extension shall be for more than six months. If the taxpayer has requested an extension of time for the filing of a return, the period during which the return will be considered timely filed shall not expire until 10 days after the Department of Revenue mails to the taxpayer a rejection of the request for an extension of time for filing the return. The return shall be signed or otherwise validated under the rules or regulations which the Department of Revenue is authorized to initiate and shall contain a printed declaration that the return is filed under the penalties of perjury.

“(d) Every individual who willfully files and signs or otherwise validates under the rules or regulations which the Department of Revenue is authorized to initiate a return which the individual does not believe to be true and correct as to every material particular shall

be guilty of perjury and, upon conviction thereof, shall be imprisoned in the penitentiary for not less than one, nor more than five years.

“(e) In the event a husband and wife file a joint return, the husband and wife shall be jointly and severally liable for the income tax shown on the return or as may be determined by the Department of Revenue to be due by them to the State of Alabama. Notwithstanding the foregoing, an innocent spouse without knowledge of all entries on the return shall be relieved of certain liabilities to the same extent and in the same manner as granted by the Internal Revenue Code for federal income tax purposes.

“§40-18-73.

“(a) Every employee, on or before the date of commencement of employment, shall furnish his or her employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he or she claims, which in no event shall exceed the number to which the employee is entitled.

“(b) Withholding exemption certificates shall take effect upon the beginning of the employee's first payroll period , or the first payment of wages made without regard to a payroll period, after the date on which the certificate is completed and submitted .

“(c) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another certificate takes effect under this section. If a withholding exemption certificate is submitted to take the place of an existing certificate, the employer, at his or her option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date and adjust the withholding on January 1 or July 1, whichever occurs at least 30 days after the date on which the new certificate is furnished, or may adjust the withholding immediately.

“(d) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his or her next taxable year is different from the number to which the employee is currently entitled , the employee shall, according to rules established by the department, provide the employer with a withholding exemption certificate relating to the number of exemptions which he or she claims with respect to the next taxable year, which shall not exceed the number to which he or she may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is submitted.

“(e) Whenever the number of exemptions of an employee either increases or decreases, the employee shall submit to the

employer a new exemption certificate which accurately states the true number of exemptions to which that employee is entitled.

“(f) Effective for tax years beginning January 1, 1998, and thereafter, an employer shall not be required to deduct and withhold any tax under this chapter upon a payment of wages to an employee if there is in effect with respect to the payment a withholding exemption certificate furnished to the employer by the employee certifying that the employee:

“(1) Incurred no liability for income tax imposed under this chapter for the preceding taxable year.

“(2) Anticipates that he or she will not incur a liability for income tax imposed under this chapter for the current year.

“(g) Withholding exemption certificates shall be in the form and contain that information which the department may require, and be submitted in accordance with regulations which the department shall prescribe.”

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. All laws or parts of laws which conflict with this act are repealed.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 30, 1998

Time: 3:45 P.M.

Act No. 98-469

H. 641 – Rep. Knight (J)

AN ACT

To amend Sections 36-33-1 and 36-33-2, Code of Alabama 1975, relating to protection and security for certain public officials, to specify the duties of executive security officers; to provide for protection of certain public official protectees at private and political events, and for reimbursement of certain expenses of security protection for such persons; and to prescribe certain penalties.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 36-33-1 and 36-33-2, Code of Alabama 1975, are amended to read as follows:

“§36-33-1.

For the purposes of this chapter, the following words and phrases shall have the respective meanings ascribed by this section:

“(1) EXECUTIVE SECURITY OFFICERS. Any persons designated by the director of public safety to protect the Governor and his or her immediate family at the Governor’s Mansion, or a former Governor who is physically disabled.

“(2) GOVERNOR-ELECT AND LIEUTENANT GOVERNOR-ELECT AND ATTORNEY GENERAL-ELECT. Such persons as are the apparent successful candidates for the offices of governor and lieutenant governor and attorney general, respectively, as ascertained from the results of any primary or general election held to determine the successors of the governor and lieutenant governor and attorney general.

“(3) OTHER OFFICERS NEXT IN THE ORDER OF SUCCESSION TO THE OFFICE OF GOVERNOR. The two persons next in order of succession to act as governor after the lieutenant governor, in accordance with article 5, section 127, Constitution of Alabama of 1901, namely, the president pro tem of the senate and the speaker of the house, each until their successors are elected.

“(4) PROTECTEE OF THE DEPARTMENT OF PUBLIC SAFETY. Such persons as are designated by the governor or the director of public safety to receive protection.

“§36-33-2.

“(a) The department of public safety shall protect, from the date of his or her election, throughout his or her term and for a period of five years after the expiration of his or her term of office, the person of the governor of the state of Alabama, and the members of the immediate family and the governor-elect; and from the date of their respective elections and throughout their respective terms of office the department of public safety is required to protect the person of the lieutenant governor, the next two officers in order of succession to the office of governor, the president pro tem of the senate and the speaker of the house, each until their successors are elected, and the lieutenant governor-elect and the attorney general and the attorney general-elect; and, at the direction of the governor or director of public safety, other officials of the state and distinguished visitors to the state. The department of public safety may call on other departments of state government to assist in this protective function. Provided, however, the protection of such state officers shall be at each officer’s discretion.

“(b)

“(1) Persons serving as executive security officers on the effective date of the act adding this language, shall be entitled to continue under their employment status as of that date, including, but not limited to, the provision of all employee benefits, compensation, and job protection benefits held on that date.

"(2) After the effective date of the act adding this language, the Director of Public Safety shall employ all executive security officers. These officers shall serve at the discretion of the director. These officers shall:

"a. Be nonmerit-system employees of the department, but shall be appointed in accordance with the spirit of all applicable federal court orders, including U.S. v. Ballard, pertaining to the employment practices of the State of Alabama.

b. Receive the compensation determined by the director but not less than that of a state trooper of an equivalent rank.

"c. Work in uniforms as prescribed by the director.

(3) The director may limit the duties of executive security officers to providing protection at the Governor's Mansion in Montgomery, Alabama, and at the primary residence of any former Governor who is physically disabled.

(4) All executive security officers shall be clothed with the powers and authority of peace officers and shall have the power of arrest. The provisions of the Minimum Standards and Training Act shall not be mandatory on such executive security officers and they shall be exempt from compliance therewith. The salary of any department of public safety personnel, currently classified in the state merit system, shall not exceed three steps above his earned permanent rank; provided, however, this provision shall not be construed to prohibit any earned promotion.

(5) The salary of the executive security officers shall be paid from any funds appropriated for the department of public safety.

"(c) The provisions of section 36-21-50 shall have no application to any person acting pursuant to this section.

"(d) Any other provision of law or judicial or administrative rule or ruling to the contrary notwithstanding, the director may use any personnel or equipment of the department for the protection or security, or both, of any protectee designated in this chapter, at any personal, political, official, campaign-related, or recreational event.

"(e) If a protectee is provided protection or security on a personal or recreational trip outside the State of Alabama, the protectee shall reimburse the state for vehicle usage at a rate equal to the mileage reimbursement for state employees. Protectees shall be provided protection and security without cost or reimbursement for personal or recreational trips within the state, and for trips held outside of Alabama which entail official business.

"(f) Protection for protectees attending political or campaign events shall be subject to the following provisions:

"(1) If a protectee attends a campaign event related to another person's political campaign, an official political party function, or a political fundraiser, the sponsor or sponsors of the event who extended the invitation shall reimburse the state for vehicle usage at a rate equal to the mileage reimbursement for state employees.

"(2) If the protectee was not extended an invitation to those events specified in subdivision (1), and attended on his or her own volition, the protectee or the protectee's campaign shall reimburse the State of Alabama for vehicle usage at a rate equal to the mileage reimbursement for state employees.

"(3) If a protectee is provided protection to attend a campaign function aimed exclusively at election of the protectee, the protectee or the protectee's campaign shall reimburse the State of Alabama for vehicle usage at a rate equal to the mileage reimbursement for state employees.

"(4) All reimbursements shall be made within 45 days of an event and shall be paid to the State Comptroller for deposit into the State General Fund.

"(5) A violation of this subsection by an event sponsor or by a protectee is punishable as a Class C misdemeanor."

(g) No reimbursement made by the protectee or a sponsor or sponsors of an event as provided in this section shall be construed as an in-kind contribution to the protectee's political campaign if such reimbursement was made during the period of time in which campaign contributions are prohibited.

Section 2. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 3. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved April 30, 1998

Time: 5:00 P.M.

Act No. 98-470

H. 90 – Rep. Parker (T)

AN ACT

To amend Section 32-6-19 of the Code of Alabama 1975, as amended by Act 97-494, 1997 Regular Session (Acts 1997, p. 883), relating to the imposition of a penalty for driving with a cancelled, suspended, or revoked driver's license; to provide for the impoundment of a motor vehicle operated by a person whose driver's license or driving privilege has been cancelled, suspended, or revoked for any reason; to provide

an exception for certain emergencies; to provide the procedure for the impoundment; to provide immunity to the law enforcement officer; to create a lien on the vehicle on behalf of the towing company; and to repeal Article 9A, Chapter 5A of Title 32 of the Code of Alabama 1975, the "Safe Streets Act of 1995."

Be It Enacted by the Legislature of Alabama:

Section 1. Section 32-6-19 of the Code of Alabama 1975, as amended by Act 97-494, 1997 Regular Session (Acts 1997, p. 883), is amended to read as follows:

"§32-6-19.

"(a) Any person whose driver's or chauffeur's license issued in this or another state or whose driving privilege as a nonresident has been cancelled, denied, suspended, or revoked as provided in this article and who drives any motor vehicle upon the highways of this state while his or her license or privilege is cancelled, denied, suspended, or revoked shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and in addition thereto may be imprisoned for not more than 180 days. In addition to all fines, fees, costs, and punishments prescribed by law, there shall be imposed or assessed an additional penalty of fifty dollars (\$50) to be placed in the Traffic Safety Trust Fund and the Peace Officers Standards and Training Fund. Also, at the discretion of the Director of Public Safety, the person's license may be revoked for an additional revocation period of six months.

"(b) Notwithstanding any provision of law, any person who operates a motor vehicle upon the highways of this state while his or her driver's license or driving privilege is revoked for any reason under the laws of this state or similar laws of any other state or territory, or while his or her driver's license or driving privilege is suspended as a consequence of a DUI-related offense, including, but not limited to, being adjudicated delinquent or a youthful offender based on a DUI-related offense, or while his or her driver's license or driving privilege is suspended as a result of failure to comply with the implied consent law of this state or laws of another state, or who has been adjudicated a delinquent child or a youthful offender based on an offense that if the person had been an adult would have been a conviction of driving under the influence of a controlled substance or alcohol or failure to comply with the implied consent law, shall be immediately removed from the vehicle. The vehicle, regardless of ownership or possessory interest of the operator or person present in the vehicle, except when the owner of the vehicle or another family member of the owner is present in the vehicle and presents a valid driver's license, shall be impounded by any duly sworn law enforcement officer. If there is

an emergency or medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the vehicle.

“(c) (1) The law enforcement officer making the impoundment shall direct an approved towing service to tow the vehicle to the garage of the towing service, storage lot, or other place of safety and maintain custody and control of the vehicle until the registered owner or authorized agent of the registered owner claims the vehicle by paying all reasonable and customary towing and storage fees for the services of the towing company. The vehicle shall then be released to the registered owner or an agent of the owner.

“(2) Any towing service or towing company removing the vehicle at the direction of the law enforcement officer in accordance with this section shall have a lien on the motor vehicle for all reasonable and customary fees relating to the towing and storage of the motor vehicle. This lien shall be subject and subordinate to all prior security interests and other liens affecting the vehicle whether evidenced on the certificate of title or otherwise. Notice of any sale or proceedings relative to this lien shall be given to the holders of all prior security interest or other liens by official service of process at least 15 days prior to any sale or other proceedings.”

Section 2. Article 9A (commencing with Section 32-5A-200) of Chapter 5A of Title 32 of the Code of Alabama 1975, is repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved May 1, 1998

Time: 8:15 A.M.

Act No. 98-471

H. 114 – Reps. Dukes and Hayden

AN ACT

To authorize counties and incorporated municipalities to enter into written contracts with each other to perform any services common to all contracting entities; to establish the requirements for the contracts; to specify the contents of the contracts; to provide that the contracts may not authorize the joint exercise of the power to tax or to zone property except as specifically authorized by this act; and to provide that this act shall not affect any other laws which allow joint contracts between public entities.

Be It Enacted by the Legislature of Alabama:

Section 1. Except as otherwise provided in this act or as otherwise prohibited by law, any county or incorporated municipality

of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually. For purposes of this act, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

Section 2. Any contract entered into pursuant to this act shall be in writing. The contract shall specify the duration of the contract, which shall not exceed three years. The parties may renew the contract for another term of not more than three years on the same or amended terms by the same method by which the original contract was adopted. Any party to the contract shall have the power to refuse to renew the contract. The refusal shall not affect the authority of the remaining parties to enter into a contract with each other with the same or similar terms of the original contract as provided in this act. The contract shall also specify the purpose of the contract; the method to be used to partially or completely terminate the contract; the method to be used to dispose of any property belonging to the parties as a result of the contract upon termination of the contract; the manner of financing the joint undertaking and of establishing and creating a budget for the undertaking, except that no party to the contract shall have any power to incur any debt which shall become the responsibility of any other contracting party; and any other matter necessary and proper to jointly exercise the contract.

Section 3. No contract entered into pursuant to this act shall take effect until the contract has been approved by the governing body of each of the contracting municipalities or counties. Approval by a county governing body shall be by adoption of a resolution and approval by a municipal governing body shall be by adoption of an ordinance of general and permanent operation.

Section 4. The contracting parties may specify the method or methods which shall be used to implement the contract.

Section 5. Nothing in this act shall be construed to authorize the joint exercise of the power to levy taxes or to zone real property. Additionally, nothing in this act shall be construed to authorize the joint exercise of the power to tax, the power to exercise planning authority, or

the power to zone real property in the unincorporated areas of a county unless authorized by act of the Legislature. Notwithstanding this prohibition, counties and municipalities may contract with each other to zone flood prone areas as mandated by the federal government pursuant to Title 11, Chapter 19, Code of Alabama 1975.

Section 6. Nothing in this act shall be construed to affect or alter any other law which authorizes joint cooperative power between any public entities and this act shall be supplemental to these laws.

Section 7. Except as otherwise provided in this act and as limited by the contract between the contracting parties, any entity which contracts to perform or exercise any service or power pursuant to this act shall have the full power and authority to act within the jurisdiction of all contracting entities to the extent necessary to carry out the purposes of the contract. Each municipality or county which is a party to the contract shall adopt all ordinances, resolutions, or policies necessary to authorize the other contracting entities to carry out their contractual duties and responsibilities.

Section 8. The provisions of this act are not applicable to contracts for the collection, transportation, storage, or disposal of solid waste.

Section 9. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 10. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:16 A.M.

Act No. 98-472

S. 626 – Senator Mitchell

AN ACT

Relating to Crenshaw County; amending Act 87-420 of the 1987 Regular Session (Acts 1987, p. 617), relating to the construction, maintenance, and repair of the public roads and bridges under the county unit system, to further provide for the employment of the county engineer.

Be It Enacted by the Legislature of Alabama:

Section 1. Section 1 of Act 87-420 of the 1987 Regular Session (Acts 1987, p. 617), is amended to read as follows:

“Section 1. The Crenshaw County Commission, or any succeeding county governing body performing the functions of the county governing

body in said county, shall employ a county engineer, who shall be a thoroughly qualified and competent civil engineer, possessing all of the qualifications as specified for county engineers under the general laws of the State of Alabama; and he or she shall devote his or her entire time and attention to the maintenance and construction of the Crenshaw County public roads, highways, bridges and ferries."

Section 2. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:18 A.M.

Act No. 98-473

S. 652 – Senator Smith

AN ACT

Relating to Etowah County; to repeal Act 1183, H. 2262, 1971 Regular Session (Acts 1971, p. 2042) and Act 1494, S. 1092, 1971 Regular Session (Acts 1971, p. 2578), relating to the Police Department and Fire Department of the City of Gadsden.

Be It Enacted by the Legislature of Alabama:

Section 1. Act 1183, H. 2262, 1971 Regular Session (Acts 1971, p. 2042), is hereby repealed.

Section 2. Act 1494, S. 1092, 1971 Regular Session (Acts 1971, p. 2578), is hereby repealed.

Section 3. This act shall become effective immediately upon its passage and approval by the Governor, or its otherwise becoming a law.

Approved May 1, 1998

Time: 8:10 A.M.

Act No. 98-474

S. 665 – Senator Lindsey

AN ACT

Relating to Choctaw County; providing for the county commission to reimburse the office of judge of probate for monetary loss resulting from the performance of official duties for errors or mistakes made in good faith, not to exceed a certain annual maximum; and providing that reimbursement payments be made from the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. The Choctaw County Commission shall reimburse the office of judge of probate from the general fund of the

county, the amount of any monetary loss, not to exceed a total payment of three thousand dollars (\$3,000) per annum, arising or caused by error if the mistake or omission was caused without the personal knowledge of the judge of probate, including loss arising from acceptance of worthless or forged checks, drafts, money orders, or other written orders for money or its equivalent.

Section 2. It shall be the duty of the judge of probate to insure that the employees of his or her office exercise due care in performing their required duties and make a diligent effort to correct the error, mistake, or omission. The judge of probate shall make a good faith effort to collect the amount subject to potential loss immediately upon becoming aware of the potential loss.

Section 3. This act does not apply to any deliberate misuse or misappropriation of funds by the judge of probate, or by any official, clerk, or employee of the office of judge of probate.

Section 4. No judge of probate, or any official, clerk, or employee of his or her office shall be liable for worthless checks if the judge of probate makes a good faith effort to collect on the worthless checks.

Section 5. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:20 A.M.

Act No. 98-475

S. 668 – Senator Clay

AN ACT

Relating to Barbour County; to authorize the judge of probate to charge a fee for mailing boat licenses.

Be It Enacted by the Legislature of Alabama:

Section 1. The Judge of Probate of Barbour County may issue boat licenses, pursuant to Chapter 5, Title 33, Code of Alabama 1975, by mail and may collect an additional issuance fee established by the judge of probate in an amount not to exceed two dollars (\$2) to cover the expenses of mailing the boat licenses.

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:21 A.M.

Act No. 98-476

S. 669 – Senator Clay

AN ACT

Relating to Barbour County; to require the installation and maintenance of an improved system of recording, archiving, and retrieving documents affecting the title to property and other documents recorded in the office of the judge of probate; to provide for the collection and disposition of a special recording fee; and to provide that the system shall constitute official and permanent records in Barbour County.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in Barbour County. The purpose of the act is to facilitate the use of public records in property transactions in Barbour County by providing for the installation of an improved system of recording, archiving, and retrieving instruments and documents affecting the title to real and personal property that are recorded in the office of the judge of probate, and for the recording, archiving, and retrieving of other instruments, documents, and other uses in the discretion of the judge of probate.

Section 2. The following words and phrases when used in this act shall have the following meanings:

(1) **GENERAL PROPERTY INSTRUMENT.** A real property instrument that affects the title to personal property as well as real property.

(2) **IMPROVED RECORDING SYSTEM.** A system of recording real property instruments and personal property instruments in the probate office and, in the discretion of the judge of probate, of recording other instruments and documents, which system when completed, will consist of the equipment necessary and suitable to record, archive, and retrieve records.

(3) **PERSONAL PROPERTY INSTRUMENT.** Any instrument or document affecting the title to personal property only, as distinguished from real property, that may be now or hereafter required to be filed or titled for record in the probate office, in accordance with the applicable requirements of the laws of this state, including, without limitation, Sections 35-4-50 and 35-4-90, Code of Alabama 1975.

(4) **REAL PROPERTY INSTRUMENT.** Includes any instrument or document affecting the title to real property that may now or hereafter be filed for record in the probate office pursuant to the applicable requirements of the laws of this state, including, without limitation, Section 12-13-43, Code of Alabama 1975, and all statutes providing for the filing and recording of notices or statements of liens of any kind, notices of judgments, and plats or maps showing the subdivision of real estate.

Section 3. The judge of probate may provide for the installation and thereafter for the maintenance of an improved recording, archiving, and retrieval system in the probate offices of Barbour County. The initial installation of the improved recording, archival, and retrieval system shall include the following:

(1) The acquisition of the equipment for an improved recording, archiving, and retrieving system.

(2) The establishment of procedures for the continued recording, archiving, and retrieving of all instruments and records that will, after the effective installation date, constitute a part of the improved recording, archiving, and retrieving system.

(3) The initial installation of the improved recording, archiving, and retrieving system shall be performed by a person or persons, firm, or corporation engaged in the records management business and experienced in setting up county records and shall be supervised and inspected by a person who is experienced in handling records pertaining to abstracts or titles. Following installation in the county, the improved recording, archiving, and retrieving system shall be thereafter maintained in the county and all real property instruments, general property instruments, personal property instruments, and other documents and records herein provided to constitute a part of the system, that may be thereafter filed for record in the probate office of the county shall be in accordance with the improved recording, archiving, and retrieving system. Each real property instrument and each personal property instrument shall be operative as a record from the time of its delivery to the judge of probate of the county, in accordance with existing law, including, without limitation, Section 12-13-43, Code of Alabama 1975.

Section 4. Following the effective installation date, real property instruments, personal property instruments, and other documents and records to be recorded, archived, and retrieved with computer-generated files or to be stored and filed on either optical disk or on paper (as determined by the Barbour County Commission) shall constitute the official record of instruments for the purpose of Section 12-13-43, Code of Alabama 1975.

Section 5. All laws of Alabama relating to the recording of real property instruments, personal property instruments, general property instruments, miscellaneous instruments, and other instruments and records that may constitute part of an improved recording, archiving, and retrieving system installed hereunder, including, without limitation, Section 12-13-43, Code of Alabama 1975, and all statutes respecting the filing and recording of notices or statements of liens of any kind, notices of Lis Pendens, declarations of claims or exemptions, certificates of judgement, or plats or

maps showing subdivisions of real estate that are not inconsistent with this act shall continue in effect with respect to an improved recording, archiving, and retrieving system installed hereunder, the recording of instruments therein, and the duties of the judge of probate with respect thereto.

Section 6. The initial installation costs shall be paid entirely out of the special recording fees. Nothing contained in this section, however, shall prohibit the county from using any part of its own funds for the purpose of paying the costs of purchasing, operating, or maintaining, after the initial installation, any improved system installed pursuant to this act.

Section 7. Effective immediately after the date this act becomes applicable to Barbour County, a special recording and filing fee of five dollars (\$5) shall be paid to and collected by the Judge of Probate of Barbour County, with respect to each real property instrument, each personal property instrument, and each Uniform Commercial Code document that may be filed for record in the office of the judge of probate and with respect to other instruments and documents in the probate office at the discretion of the judge of probate, and on and after that date, no instrument or document shall be received for record in the office of the judge of probate unless the special recording fee of five dollars (\$5) is paid. The special recording fee shall be in addition to all other fees, taxes, and charges required by law to be paid upon the filing for record of any real property instrument, personal property instrument, or Uniform Commercial Code document, and for the recording of other instruments and documents in the probate office at the discretion of the judge of probate. All special recording fees collected shall be paid into the general fund of Barbour County. These funds shall be used at the discretion of the judge of probate for an improved recording, archiving, and retrieving system and other equipment, maintenance, and services necessary for the improvement of the office of the judge of probate.

Section 8. Effective immediately upon the date this act becomes applicable to Barbour County, any and all revenues generated either directly or indirectly due to the use of or access to the improved recording, archiving, and retrieving system shall be paid directly into the general fund of Barbour County for the use of the judge of probate.

Section 9. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:22 A.M.

Act No. 98-477

S. 672 – Senator Hill

AN ACT

Relating to Talladega County; providing for an additional expense allowance and salary for the sheriff.

Be It Enacted by the Legislature of Alabama:

Section 1. The Sheriff of Talladega County shall be entitled to receive an additional expense allowance in the amount of five thousand dollars (\$5,000) per annum, which shall be in addition to all other expense allowances, compensation, or salary provided by law. This expense allowance shall be payable in equal monthly installments from the general fund of the county.

Section 2. Beginning with the expiration of the term of the incumbent sheriff, the annual salary for the Sheriff of Talladega County shall be increased by five thousand dollars (\$5,000), payable in equal monthly installments from the general fund of the county and at that time, Section 1 shall become null and void.

Section 3. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming a law.

Approved May 1, 1998

Time: 8:23 A.M.

Act No. 98-478

S. 673 – Senator Hill

AN ACT

Relating to Talladega County; to authorize the juvenile court to conduct drug testing; to establish a method of payment of fees for the administered tests; to provide for the collection of monitoring fees in regard to in-home detention of juveniles; and to provide for the distribution of the fees collected to the appropriate accounts to carry out the purposes of this act.

Be It Enacted by the Legislature of Alabama:

Section 1. This act shall apply only in Talladega County.

Section 2. The Legislature finds that the Juvenile Court of Talladega County has established a drug testing laboratory and the laboratory has excess capacity that can be utilized by other agencies, courts, and jail facilities or other entities deemed appropriate, including, but not limited to, school systems, departments of human resources, mental health facilities, public health departments, court systems, and classes of individuals. Testing shall be

done on a fee basis as established herein. Legislation is needed to provide for handling of funds for costs associated with testing and the collection of fees associated with testing in view of the fact that there is not a local source for testing that meets the needs of Talladega County for timely testing for drugs.

Section 3. (a) Upon agreement or by order of a court to test, the juvenile court may conduct drug tests on samples provided and supply timely results to the appropriate court, agency, or individual. The juvenile court may employ outside laboratories for testing if necessary or refer the testing to another laboratory at its discretion, as the testing program established by the juvenile court may require.

(b) The fee for drug testing shall be set by the juvenile court and shall be reasonable in accordance with other fees for the same testing performed by court referral officers, probation officers, or private laboratories. In the case of any criminal or quasi-criminal proceedings, the fees for any test performed prior to conviction shall be assessed in the sentencing phase only after conviction. Fees associated with drug testing shall be collected in the same manner as fines, costs, and assessments are collected by the court. In the event that any testing is done pursuant to any agreement entered into with an agency or an individual, fees shall be assessed and collected in accordance with that agreement. Otherwise, the fees may be collected by any means available at law for the collection of fees as presently available for collection of fines, costs, and other assessments or civil debts.

Section 4. The juvenile court may charge a reasonable fee for home monitoring equipment which enables a juvenile to be placed in his or her home in lieu of detention or when used as a sentencing alternative and the fees shall be collected in the same manner as fines, costs, and assessments are collected by the court.

Section 5. (a) The fees collected pursuant to this act shall be made payable to the Circuit Clerk of Talladega County who shall disburse the proceeds as follows:

(1) For payment of the drug test for the case for which the fee is collected before any other fines, costs, or fees, if any, are paid.

(2) The balance quarterly to the Talladega County Commission for payment to the Juvenile Justice Fund for juvenile court purposes.

(b) Fees in any cases which are more than six months old and for which the associated fees for drug testing have not been paid shall be paid from the proceeds of subdivision (4) of Section 7 of Act 90-424, and in the month of January each year the juvenile court shall ascertain which cases are delinquent and present those cases for payment.

(c) The Administrative Office of Courts shall cooperate with the clerk in providing the necessary system to accomplish and carry out the objectives of this act as requested by the presiding juvenile judge and for the collection and disbursement of all monies collected through this program.

Section 6. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.

Section 7. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:24 A.M.

Act No. 98-479

H. 922 – Rep. Layson

AN ACT

Relating to Pickens County; providing for the levy and collection by the judge of probate and revenue commissioner of an additional special transaction fee on copies of certain computer-generated documents, except for motor vehicle license tags, for deposit in the county treasury for the financing, equipping, and construction of a county jail; and providing for a referendum on the measure.

Be It Enacted by the Legislature of Alabama:

Section 1. In Pickens County, the judge of probate and the revenue commissioner shall collect an additional special transaction fee of two dollars (\$2) for each document or copy of a document from a computer-generated file or optical disk constituting the official record of the county or other item of computer generated business, except for records on a motor vehicle license tag.

Section 2. The special transaction fee authorized and collected pursuant to Section 1 of this act shall be deposited in the county treasury for the financing, equipping, and construction of a county jail.

On the first day of the month after the retirement of the debt to finance the construction of a new county jail, the special transaction fee shall expire and this act shall be repealed.

Section 3. Sections 1 and 2 shall become effective upon approval by a majority of the qualified electors of the county who vote thereon. The election shall be held and conducted at the primary election on June 2, 1998. Notice of the election shall be given by the judge of probate and shall be published once a week for

three successive weeks before the day of the election. On the ballot used at the election, the proposition to be voted on shall be stated substantially as follows:

"Do you favor the local law providing for an additional special transaction fee for each item of computer generated business in the office of the judge of probate or revenue commissioner to be used for county purposes? Yes ____ No ____."

If a majority of the votes cast at the election are affirmative votes, this act shall have full force and effect on the first day of the second month following the election. If a majority of the votes cast are negative votes, this act shall have no further effect and shall be inoperative and void. The judge of probate shall certify the results of the election to the Secretary of State.

Section 4. This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:25 A.M.

Act No. 98-480

H. 921 – Rep. Layson

AN ACT

Relating to Pickens County; to amend Act 171, 1965 Regular Session (Acts 1965, p. 238), authorizing the levy of a sales and use tax in the county, to further provide for the distribution of a portion of the proceeds to the county general fund.

Be It Enacted by the Legislature of Alabama:

Section 1. Sections 4 and 5 of Act 171, 1965 Regular Session (Acts 1965, p. 238), as amended by Act 511, 1975 Regular Session (Acts 1975, p. 1144), are amended to read as follows:

"Section 4. (a) The taxes levied by this act shall be collected by the Department of Revenue of the State of Alabama, at the same time and along with the collection by that department of taxes levied and collected for the State of Alabama under the provisions of Act 100, approved August 18, 1959 and Article 11, of Chapter 20, Title 51, Code of Alabama 1940, and all acts amendatory thereof or supplementary thereto. All reports now required to be made to the Commissioner of Revenue hereunder shall, on request made to the Department of Revenue, be made available for inspection by the Pickens County Commission or its designated agent, at reasonable times during business hours. The State Department of Revenue

shall prepare and distribute the reports, forms and other information as may be necessary for the collection of the county taxes levied by this act, and shall have all the authority and duties in connection with the taxes as are now given by law to the Department of Revenue or the Commissioner of Revenue in connection with the collection of the state sales and use taxes provided for by Act 100, approved August 18, 1959 and Article 11, of Chapter 20, Title 51, Code of Alabama 1940, and all acts amendatory thereof or supplementary thereto. It shall be the duty of the Commissioner of Revenue to pay into the State Treasury all taxes collected under this act. On or before the tenth day of the following month, the commissioner shall certify to the State Comptroller the amount of special taxes collected under the provisions of this act for public purposes in Pickens County during the calendar month immediately preceding the month of making such certificate, whereupon it shall be the duty of the Comptroller to issue his or her warrant or warrants on the State Treasury, payable as follows:

"(1) To the Pickens County Hospital Association in an amount equal to the amount so certified by the Commissioner of Revenue as having been collected for public purposes in Pickens County and paid into the State Treasury during the preceding month so as to provide that Pickens County Hospital Association shall receive all of the special taxes in any fiscal year of the state until it shall have received the sum of one hundred twenty thousand dollars (\$120,000), which shall be dedicated for public health purposes.

"(2) To the Pickens County Hospital Association in an amount equal to one-half the balance, if any, of the amount so certified to the Commissioner of Revenue as having been collected for public purposes in Pickens County and paid into the State Treasury during the preceding month remaining after any payment to the Pickens County Hospital Association made pursuant to the provisions of the preceding clause (1), which shall be dedicated for public health purposes.

"(3) To the Pickens County Commission, to be deposited in the county general fund, in an amount equal to one-half the balance, if any, of the amount so certified to the Commissioner of Revenue as having been collected for public purposes in Pickens County and paid into the State Treasury during the preceding month remaining after any payment to the Pickens County Hospital Association made pursuant to the provisions of the preceding clause (1).

"It is the intention hereof that the Comptroller shall pay to Pickens County Hospital Association, during any fiscal year of the state, the first one hundred twenty thousand dollars (\$120,000) of the amount so certified by the Commissioner of Revenue and shall

pay one-half of the balance, if any, to both the Pickens County Hospital Association and the Pickens County Commission of all amounts so certified by the Commissioner of Revenue in excess of one hundred twenty thousand dollars (\$120,000) during any fiscal year of the state.

“(b) The State Department of Revenue shall charge Pickens County for collecting the special taxes levied by this act the amount of percentage of total collections as may be agreed upon by the Commissioner of Revenue and the Pickens County Commission, but the charge shall not, in any event, exceed ten percent of the total amount of special county taxes collected hereunder within the county. The charge for collecting the special taxes shall be deducted once each month from the special sales and special use taxes collected before certifying the amount of special sales and special use taxes to be paid to the Pickens County Hospital Association or the Pickens County Commission, as the case may be, for that month.”

“Section 5. All revenues arising from the taxes herein levied shall be used exclusively and solely for public purposes in Pickens County, including the acquisition by purchase, lease or otherwise, and the construction, equipment, operation and maintenance of public hospital facilities, or any one or more of such purposes. The revenues paid to Pickens County Hospital Association shall be applied by it solely for the following public health purposes and in the following order: (a) Payment of the principal of and interest on any securities at any time issued by it for payment of costs of acquisition, by purchase, lease or otherwise, construction and equipment of public hospital facilities in the county, including particularly, but without limitation, any securities issued by it for the purpose of paying the costs of acquiring, constructing, and equipping a public hospital facility in or near the Town of Carrollton, Alabama, and (b) to the extent that the revenues are in excess of the amount required for payment of such principal and interest, for payment of the costs of operating and maintaining the public hospital facility. The revenues paid to the Pickens County Commission shall be deposited in the county general fund and applied by it for public purposes in the county.

“The words “Pickens County Hospital Association,” wherever used in this act, mean that certain public corporation organized in Pickens County under the provisions of Act 211, enacted at the 1945 Regular Session of the Legislature of Alabama, and heretofore designated, pursuant to procedures provided for in Act 640, enacted at the 1949 Regular Session of the Legislature, as the agency of the county to acquire, construct, equip, operate, and maintain public health facilities.

"The term "public health facilities" or the term "public hospital facilities" includes public hospitals, public clinics, health centers, and nursing home facilities for the housing and training of nurses, and any thereof.

"The term "public health purposes" or the term "public hospital purposes" hereafter used in this act, shall be deemed to include the acquisition by purchase, lease or otherwise, and the construction, equipment, operation, and maintenance of public health facilities, or any one or more of the purposes, including retirement of securities lawfully issued therefor at any time by the Pickens County Hospital Association or the Pickens County Commission."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.

Approved May 1, 1998

Time: 8:26 A.M.

Act No. 98-481

H.J.R. 447 – Rep. Minnifield

HOUSE JOINT RESOLUTION

THANKING PRESIDENT CLINTON FOR DECLARING PARTS OF NORTH ALABAMA A FEDERAL DISASTER AREA AND AUTHORIZING FEDERAL RELIEF EFFORTS.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That, in view of the immediate response of President Clinton to the massive destruction suffered in portions of Jefferson, Tuscaloosa, and St. Clair Counties in north Alabama on April 8th and 9th, 1998, due to tornado and related storm damage, we hereby thank President Clinton, by copy of this resolution, for quickly declaring those areas a federal disaster area, and for immediately sending federal aid and relief to the area.

Approved May 1, 1998

Time: 8:27 A.M.

Act No. 98-482

H.J.R. 427 – Rep. Gipson

HOUSE JOINT RESOLUTION

EXTENDING THE LIFE OF THE UNAUTHORIZED SCRAP TIRE PILE JOINT INTERIM LEGISLATIVE COMMITTEE.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the life of the Unauthorized Scrap Tire Pile Joint Interim Legislative Committee created by Act 97-714, S.J.R. 166 of the 1997 Regular Session is extended to not later than the fifth legislative day of the 1999 Regular Session, whereupon the committee shall stand dissolved and discharged of any further duties and responsibilities.

Approved May 1, 1998

Time: 8:28 A.M.

Act No. 98-483

H.J.R. 444 – Reps. Penry and McMillan

HOUSE JOINT RESOLUTION

REQUESTING THE DEPARTMENT OF PUBLIC HEALTH TO ESTABLISH A VOLUNTEER HEALTH CARE PROVIDER PROGRAM WITHIN THE DEPARTMENT.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That the State Health Officer is requested to establish within the Department of Public Health a volunteer health care provider program to provide to eligible hospitals, clinics, or other health care facilities or referral programs free medical services given on a voluntary basis by health care providers. A participating health care provider should register with the department and obtain from the department a list of eligible, participating hospitals, clinics, or other health care facilities or referral programs.

The department is requested to adopt rules to implement a volunteer health care provider program which should, if adopted, include the following requirements:

(1) Procedures for registration of health care providers deemed qualified by the Medical Licensure Commission, Board of Nursing, Board of Dental Examiners, Board of Optometry, Board of Pharmacy, Board of Chiropractic Examiners, or similar health professional licensing boards.

(2) Criteria for, and identification of, hospitals, clinics, or other health care facilities or referral programs eligible to participate in the provision of free medical services through the volunteer health care provider program. A hospital, clinic, other health care facility or referral program, or a health care provider participating in the program should not bill or charge a patient for any health care service provided under the volunteer health care provider program.

A health care provider providing free care should be considered an employee of the state for the purposes of civil liability, provided that the health care provider has done all of the following:

- (1) Registered with the department, if required.
- (2) Provided medical services through a hospital, clinic, or other health care facility or referral program listed as eligible and participating by the department, if required.

RESOLVED FURTHER, That a copy of this resolution be provided to the State Health Officer for his careful consideration of this request.

Approved May 1, 1998

Time: 8:29 A.M.

Act No. 98-484

H.J.R. 2 – Rep. Hammett

HOUSE JOINT RESOLUTION

COMMITTEE APPOINTED TO NOTIFY GOVERNOR LEGISLATURE IS IN SESSION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That a committee of six, consisting of three members of the House, to be named by the Speaker of the House, and three members of the Senate, to be named by the Presiding Officer of the Senate, be appointed to notify the Governor that the Legislature is now in session and is ready for the transaction of business.

Approved May 1, 1998

Time: 8:30 A.M.

Act No. 98-485

H.J.R. 461 – Rep. Lindsey

HOUSE JOINT RESOLUTION

DESIGNATING HIGHWAY 411 FROM LEESBURG TO GADSDEN THE G. M. "MACK" ROBERTS HIGHWAY.

WHEREAS, noted with sincere appreciation and admiration is the dedicated and committed service of G. M. "Mack" Roberts, Senior Vice President, United Toll Systems of Wetumpka,

Alabama, and Vice President Engineering, Development and Construction for United Coal Systems, and former director of the Alabama Department of Transportation; and

WHEREAS, Mr. Roberts, who was born on April 30, 1936, in Cherokee County, attended Jacksonville State University and the University of Alabama at Birmingham, and served with devotion on the Pastor Parrish Relations Committee, Administrative Board, and as a Church Youth Counselor at Dalraida United Methodist Church; and

WHEREAS, a man before his time, Mr. Roberts served as Project Engineer on many complex highway and bridge projects, and was appointed to numerous positions with the Alabama Highway Department including Alabama Highway Director by former Governor George Wallace, both Assistant Director and Highway Director by former Governor Guy Hunt, and Transportation Director by former Governor Jim Folsom, supervising Department activities with an annual budget of approximately \$765 million; and

WHEREAS, he also gained praise and recognition for his innovative ideas as a member of the National Committee for Associated General Contractors and American Road and Transportation Builders of America, International Pavement Research Committee, and with commanding skill as a member of the Tennessee-Tombigbee Waterway Development Authority, among others; and

WHEREAS, a man of keen intellect, Mr. Roberts was instrumental in the construction of the Emerald Mountain Toll Bridge, which connects Emerald Mountain with east Montgomery, and is presently supervising the Black Warrior Parkway Toll Bridge, connecting Tuscaloosa and Northport, and

WHEREAS, Mr. Roberts is married to his loving wife, the former J. Dian Ford, and they are the proud parents of four children, and proud grandparents to three grandchildren; now therefore,

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That Highway 411 from Leesburg to Gadsden be designated the G. M. "Mack" Roberts Highway, and that a copy of this resolution be sent to the proper officials for them to erect appropriate signs reflecting the naming of this highway.

Approved May 1, 1998

Time: 8:31 A.M.